



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Tuesday, the 13th October, 1953

## OFFICIAL REPORT

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# CONSTITUENT ASSEMBLY OF PAKISTAN

*Tuesday, the 13th October, 1953*

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

## REPORT OF THE BASIC PRINCIPLES COMMITTEE—*contd.*

**Mr. Ahmad E. H. Jaffer** (Sind : Muslim) : Sir, may I first offer my congratulations to the Honourable the Prime Minister on the glorious part that he has played in moving this agreed formula, and also the leaders of public opinion in both wings of Pakistan for coming to a settlement—a settlement which was indeed long overdue. But I am pained to find that in the talks for the solution that took place in Karachi between the Honourable Prime Minister and the Chief Ministers of Provinces, unfortunately Karachi was not represented, nor even consulted. I hope and trust that in the future negotiations Karachi will not receive the step-motherly treatment and I do hope and pray that Karachi will always be consulted and associated with these talks from time to time.

Mr. President ! Sir, consider now the question of Karachi, it has the highest literacy, more than double of any unit and three times more than the average of the whole of Pakistan. As a port, it handles about 70 per cent. of Pakistan's trade ; as a business centre, as indicated by the clearing house statistics of the banks, it does more business than the rest of Pakistan combined together. It is the only town in Pakistan which had a Mayor before partition. Financially, it is so sound that the Government of Pakistan has never dared to publish the statement of Karachi's Central and Provincial revenues up to date. Our own estimate is that in the year ending March 1953, the Central and Provincial sources of revenue have given the Government nothing less than 6 crores and I am making this as a conservative estimate. If one were to look at the political experience, one will find that there are more ex-Ministers of pre-partition and post-Partition periods in Karachi, than there are in the rest of Pakistan. The same is true about ex-Members of Legislatures and ex-Members of the All-India Muslim League. This is not all. The number of industries which have been established in Karachi, and the annual output will, I am sure, compare on equal terms with the rest of Pakistan at the present moment. I wish to clarify this statement that new industries started after the formation of Pakistan, as measured by the number of workers in factories, would indicate that leaving aside the old established industries, expansion in the rest of Pakistan has not exceeded the expansion in Karachi alone. Industries and trade are the two barometers of political and social betterment. They both place Karachi in the forefront of all the units of Pakistan. Yet our rulers do not feel the need of giving even bare justice to the people of Karachi. Look at our plight, which has been brought about by the administration being centred in the hands of officials, who regarded Karachi as only a side-line and never a whole-time job. Justice is so much delayed that it becomes tantamount to denial.

With expanding population, the number of schools dwindled and even the schools that were in existence at the time of Partition, have not up



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to this day been handed over for school education. Our water system is in chronic insufficiency. The sewage system of Karachi is so old, so inefficient and so much neglected that any day there may be a complete breakdown. All this is due to neglect and indifference which was bound to come from a harassed Central Government, which has to tackle the problems of 75 millions, and it is no wonder that one and a quarter million do not get their due share. Calcutta and Delhi have special representation in Central and Provincial Legislatures in India and the same should be for Karachi.

It is also very unfortunate that the two States that have acceded to Pakistan, namely, Junagadh and Manavadar, have found no place in the scheme of the new formula, or the Report of the B. P. C. I must point out to the Leader of the House that these States are the obligation of the Government of Pakistan and whatever hurdles there may be at present in the way of a direct contact between Pakistan and these acceded States, they will have to be removed one day or the other and the States brought within the ambit of Pakistan's influence and control.

As far as the other Units are concerned, I am happy to see that their spokesmen have arrived at an understanding which they consider equitable and I trust it will endure.

The recommendations of the B. P. C. cover various fields. Even a casual glance at these recommendations will not fail to show that the structure of the Constitution of Pakistan is attempted to be based on the aspirations of the Mussalmans, with a view to enable them to lead a life according to their own culture. In this connection, it is necessary to bear in mind that when we are framing the Constitution for the country, the character of the overwhelming majority of the people is bound to be obvious, but at the same time, we must keep in our mind that the people who are in a minority, have got a right to be assured that their privileges, and prerogatives will not be trampled under the weight of sheer majority. Our claim for Pakistan was based on the persistent injustice that was meted out to the Mussalmans of this sub-continent, because of the brutal majority of a particular community. Before and after independence, the Quaid-i-Azam gave assurances by which we all stand that the minorities in Pakistan will not only be treated justly, but generously. Any feeling of distrust or suspicion that may be created in the minds of the minority will strengthen the hands of our enemies to show that we have not acted according to our assurances. So, as I was saying before, when we are framing the Constitution of our State, we are not framing only a code of conduct for the people of one particular faith or religion, but we are trying to perform a limited function, and that is, to ensure a good Government for our future generation and posterity, and we are trying to leave a proud inheritance to the future historians of Pakistan. Our contribution, therefore, in respect of the constitution-framing must be weighed in the light of the legacy that we shall be leaving behind. If we were to frame a constitution for the Mussalmans alone, we could have easily ignored the existence of other communities in Pakistan. But unfortunately, a State in the modern sense of the term is limited by its territorial boundaries. Pakistan has its territorial boundaries, and therefore limitations. Within these boundaries, there are Mussalmans, Hindus, Buddhists, Christians and Parsies. The minorities are our constant trust and care. To them, therefore, we must ensure that they are not subjected to disabilities which the Mussalmans could have refused to accept, if they were in the same position. Justice is the absolute characteristic, it does



not change from place to place. If we are entitled to tell the peoples of that country, where Mussalmans are in a minority, that the rights and privileges of the Mussalmans must be safeguarded, and that any disabilities accruing to them by virtue of their being Mussalmans, must be considered to be unjust, then we have a duty, and indeed an obligation, to ensure that we are not ourselves led into the trap of the same charge against us. We must, therefore, treat the minorities as we would like to be treated in those countries where we the Mussalmans are in a minority.

I am proud to be a Mussalman. I have tried to observe consciously all the obligations of being a Mussalman. 'It is my duty as a Mussalman to follow the dictates of Islam. I try to understand my own problems myself. If I do not understand, I try to seek the assistance of those people who understand them. But I do not consider it necessary to create a permanent machinery wherein my ignorance is emphasized and the advantages of advice and assistance are wiped out and by which a terrible amount of mistrust and suspicion is created in the mind of my neighbour, who happens to be a non-Muslim. It is my duty, nay it is a mandate on me to do nothing which will revolt against the principles of Islam, but I must assure myself that the mere vocal outbursts of my attempt to follow Islam, does not create tremblings in the mind of my non-Muslim neighbour, that he will be swamped away in my shrill noise. I must, therefore, look to the problem from the point of view of the mischief, that my efforts, however honest, are likely to create. It is in this humility, therefore, that I must ask the Members of this House to consider whether there is even an iota of a chance in a country like Pakistan where overwhelming majority of the people are Mussalmans of any other character in practice than one in keeping with our culture and traditions. Those of my friends who have travelled a few miles outside our borders must have noticed far more preponderance of bigotry and dogmatism, though the world is full of the proclamations of their secularism. We the orientals have always attached a great importance to our spiritual rather than material life. The mere vocal emphasis may however prove to be pregnant with mischief and mistrust. I appeal, therefore, to the Members of this House to consider this problem from this point of view. We live in a small world today. The means of communications have contracted the world to such a small extent that whatever we do or intend to do is watched by the gazing eyes of the world around. It is necessary to ensure that the posterity may not feel that we have failed to live up to the expectations of our Quaid-i-Azam. I read the first speech of Quaid-i-Azam delivered to the Constituent Assembly of Pakistan over and over again and I must confess that I found that speech full of realism and surely I shall be excused by my fellow members if I were to request them to study that speech carefully, and I am sure, they will appreciate that the first public reaction of the Founder of Pakistan was foretold then about the shape of things to come. He was the author of the movement for Pakistan; he was the guide of the millions of the Mussalmans of this sub-continent, and in him was, therefore, centred the fountain of wisdom and sagacity which we can ignore only at our peril.

The pattern of the executive machinery to be set up under the recommendations of the Basic Principles Committee Report follows the pattern of the existing state of things. No country or people can evolve a formula much outside its own existing environments. Nowhere in the world except under revolutions has it been possible to embark upon dangerous experimentation of setting up new and novel machineries. It is, therefore, no surprise to me that the pattern under the recommendation follows closely the existing one. But it is necessary to bring about



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a few changes immediately into the existing state of things with a view to ensure to the people of Pakistan a free and secure living, both political and social. This is a concern not only of the people of East Bengal, the Punjab, Sind or the Frontier Province, but of the peoples of all religions and regions, comprising Pakistan, including the neglected Karachites, Baluchis and others.

We have for instance no provincial Government in Baluchistan to this day. No session of the All-India Muslim League was ever held after 1940, wherein a demand for setting up a provincial administration was not emphasized. I, therefore, feel almost sure that we have not been able to accede to the demand of Quaid-i-Azam himself in respect of the provincial autonomy to Baluchistan. I wholeheartedly support the demand to give Baluchistan Provincial autonomy. As I have already tabled a motion for the present session of the Constituent Assembly to give Baluchistan Provincial autonomy, I shall speak in greater details on the subject when I move my motion.

I would like to say a few words about the High Courts and I am glad the Honourable Minister for Law is present in the House.

It is very essential that the High Courts should be composed of competent, independent and experienced persons. The High Court is regarded as a court of record, whose judgments are binding on all the lower courts within its jurisdiction. If the High Court is not strong and independent, the tone of all the courts comes down and instead of protecting the citizens, the courts act as agents of the government in power. I, therefore, earnestly appeal to the House that provision should be made in the constitution to abolish all posts of Judicial Commissioners, Chief Commissioners and the so-called High Courts in the States of Pakistan like Kalat, Khairpur and Bahawalpur, etc. This reform should have taken place long before the advent of the new constitution, and I do hope that Government will not delay by a single day this desirable consummation of full justice to citizens of all parts of Pakistan. In this connection I would specially draw the attention of the Government of Pakistan to the accumulation of large arrears in the Sind Chief Court and the imperative need of increasing the number of Judges to at least nine at Karachi and changing the name of the Court from Sind Chief Court to Lower West Pakistan High Court, to embrace Baluchistan, Baluchistan States, Sind, Khairpur and the Federal Capital. The present position of the Chief Court is very unsound as they have to act as the Session Court as well as the court of first instance in the Federal Capital area, in addition to the Court of Appeal for Sind and Karachi. The Judges have been constantly discharging work other than their ordinary function in the shape of PRODA or special courts, etc. This is a further reason for making nine Judges as the minimum composition of the three High Courts, at Dacca, Lahore and Karachi which I commend to the attention of the constitution-makers.

A very necessary change in the procedure of appointment of High Court Judges is essential. India has already adopted it in its new constitution, but we are still following the British precedent of the governance of a subject country. I may refer to the appointment of Judges to the High Court for temporary periods. No Judge should be appointed for a period less than the ordinary age of retirement, and he can only be removed if the Supreme Court is of the opinion that he is unfit to continue as a Judge of the High Court. I am, therefore, opposed to section 203 which envisages the appointment of Judges for a period up to two years. I am also against the provision of sub-section (2) of



section 217 which refers to the Chief Court of Karachi. By this provision, the independence and impartiality of the Judges may be suspected by the public.

I am surprised to find in the Basic Principles Committee Report that a High Court Judge must retire at the age of 60, but if elevated as a Judge of the Federal Court, he can continue till he attains the age of 65. I fail to understand why a High Court Judge should be compelled to retire at the age of 60. If he becomes unfit at the age of 60 as a High Court Judge, it is beyond my comprehension as to how he can be fit enough to work for five years longer as a Judge of the Federal Court. I, therefore, suggest that the Judge of the High Court should be allowed to continue to serve till he attains the age of 65 or at least 63.

I must also point out that appointments of High Court Judges should be made largely from the members of the Bar. At present the percentage of such appointments from the Bar is negligible and the lion's share goes to those from the Judiciary. Now and again we are told that it is difficult to get suitable persons to fill up appointments to the Bench, but I must say that we have talented and able men in the Bar who are well qualified to fill up such appointments. I hope in future they will not be neglected. Sir, the people of Pakistan have also demanded, with one voice, the separation of the Judiciary from the Executive. The provisions of the Basic Principles Committee Report do contain traces of separation of power, but I must point out that the provisions made in that respect are so insufficient that the present generation may never be able to enjoy the fruits of these provisions. I see no reason why our Ministers and leaders should try to concentrate the whole power in their hands,—the power of the Executive as well as the Judiciary. In a federal form of Government, a strong judiciary is a watch-tower, and the custodian of the rights of the people, and that watch-tower must necessarily be ensured free and unfettered hand to stop the executive whenever it goes wrong.

We have in this Report enunciated certain principles and fundamental rights. I do not share the views of the framers of these recommendations that it is necessary to enunciate the fundamental rights. I say this because it is bound to lead to an incessant litigation. Every welfare measure is likely to be attacked by those, whom it adversely affects, on the plea that it is an infringement of their fundamental rights. But if it is necessary to enunciate these fundamental rights, then I must say, that the first problem facing such enunciation will be that of allowing a free and independent judiciary to watch, that these fundamental rights are not trampled by our future Governments. It is, therefore, an absolute necessity, and almost a corollary of this enunciation that immediately a separate and independent judiciary should be established in Pakistan.

I am also not in favour of any outside authority to abridge or limit the authority of the Federal Parliament. I have heard it in certain quarters that it is necessary to set up a body of experts, with a view to win over the confidence of certain section of the people who otherwise might exploit the ignorant masses. If any section of the people of Pakistan are prepared to give so much importance to the advice of those experts, there is no doubt, such experts will find their way in the future Parliament. It is, therefore, not necessary for us to pronounce their exceptional position and to keep them outside the Parliament so as to abridge and limit the authority of the Parliament. I think it is far more nobler, and indeed far more important, that they should be given not only the right to override the Parliament, but also the obligation to run



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the State. A member of the Parliament has the right to criticise, but also an obligation to run the State as a participant with the Government in power. It is that obligation, that to a large extent, puts a weight on the unbridled and unfettered licence, but otherwise freedom of criticism is likely to encourage destructive criticism. I, therefore, feel that if any authority has got to be created for the purpose of finding out faults in what the Parliament has done or intended to do, it is necessary that that authority should be given the responsibility to feel the difficulties in the way of putting the plans of their own into practice.

Sir, I would now like to take up the question of evacuee property. I greatly regret that the Basic Principles Committee Report has completely failed to deal with the subject of evacuee property, and the only provision that exists is item 38 of the 3rd list "Relief and Rehabilitation of Displaced Persons". No doubt it may be said that as it is not included in the lists 2 and 3, it will come under residual power to the Federation, but that is not sufficient. I, therefore, strongly advocate the inclusion of a provision for the administration of all industrial and urban properties of evacuees, to be exclusively included in list I, and the rural and agricultural properties to be included in list 3. The whole trouble has arisen, because of the fact, that there is a conflict between the Units and the Federation. The Units claim to have full right of disposing of the agricultural and rural property as they like without any interference from the Centre and in the case of urban and industrial properties they have conceded to the Centre the power to indicate policy but administration is retained by the provinces. Evacuee property should be regarded as the common responsibility and asset of all the people of Pakistan, and not that of a particular Unit, in which it may be situated. The bogey of law and order in dislodging the persons in possession of the properties without right, without having lost anything, is the most reprehensible fact. Pakistan was never established to make the rich richer, and the poor poorer, but I can give innumerable instances wherein a majority of the properties are being misused by the people who have no claim on evacuee property. The concept of evacuee property should be that of trusteeship wherein the beneficiaries are those who have lost something in India and that property has been brought in the pool for compensation to the migrants from Pakistan. Therefore, both equity and justice demand that the property of migrants from Pakistan can only and should be used exclusively to compensate those whose property the above-mentioned migrants have taken. As this is a matter with which I am deeply concerned, both as the President of the All-Pakistan Mahajir Board, and as President of the Sind-Karachi Refugee Board, I do hope my friends in the Constituent Assembly will give this matter their earnest consideration and rectify the mistakes of the past which sprang from the fact that the constitution did not contain any clear-cut provision to deal with evacuee property. The welfare of 80 lakh Mohajirs is dependent on the correct delimitation of the powers of the Centre, and the Units in dealing with the evacuee property. If the foundation is laid truly, we have every hope that the future administration will be much better than the present state of things.

Sir, I would like to say a few words now before I sit down in a few minutes and I want to take up the question of Sind. Sir, the part played by the Province of Sind in the achievement of Pakistan, and the contribution she has since been making towards building it up are as outstanding that it is not even necessary to mention them if a correspondingly appropriate place is urged for her in the social, cultural, economic and political set-up of our country.

It was Sind, first and last, which on her own initiative, expressed herself officially in favour of the establishment of Pakistan, nay, demanded it through her Legislative Assembly.

It was Sind, again, which, with all love and solicitousness in her heart, invited the Government of Pakistan to have a sojourn under her roof for as long as it was necessary and, almost with parental tenderness and foresight, spent tens of lakhs of rupees and built hundreds and thousands of houses for the office and residential needs of those who were coming as her esteemed guests.

I might remind the Honourable Members that as a matter of fact the House we are meeting in today also belongs to Sind Government. This Assembly Chamber where we are meeting today belongs to Sind.

Now, Sir, it was Sind which opened her doors to the riots-stricken Biharees in their tens of thousands—the early vanguard of the subsequent armies of political refugees from India—and did everything possible promptly to give them comfort and solace they so badly needed.

It was Sind, again, which received with open arms the early post-partition masses of her poor and helpless immigrant brethren and immediately started absorbing them within her fold, and owning them up as her own kith and kin.

It is Sind, again, whose doors are somehow being kept open even now for, more or less, a ceaseless influx of immigrants from all directions.

It should then be natural, under the circumstances, to expect that the Province of Sind must have received not only a fair but generous treatment in the scheme of things in the initial founding and subsequent dispensation of which she has had such a great hand.

To the great sorrow of Sind, however, the actual state of affairs is quite the opposite. It is indeed difficult to contemplate Sind's present situation without feeling wholly uneasy for her future. I, therefore, suggest, Sir, and I hope that Sind will find a proper place in the future set-up of things.

**The Honourable Mr. Mafizuddin Ahmad** (East Bengal : Muslim): \*Sir, on this auspicious, sacred, solemn and historic occasion in the life of the Nation my heart first goes out in thanks-givings to Almighty Allah who by His infinite mercy and unbounded blessings gave us this homeland of ours—Pakistan—and who, today, has again by His infinite mercy, enabled us to give a Constitution to the country unique in the whole world. The creation of Pakistan itself was a challenge to the history, it having its two zones divided by about 2,000 hostile miles. The world has no parallel to this. Constitution-making for such a country would naturally constitute a challenge to the wisdom, farsightedness, statesmanship and genius of the people inhabiting this vast land. Various problems cropped up. Diverse views, fears, hopes, aspirations, prejudices, complexes, outlooks and ideologies raised their ugly heads and were about to disrupt the integrity and solidarity of the country. But, behold, Divine hand was visible. Divine blessings came to the rescue. The leadership of the Nation emerged out with flying colours and rose to such a stature as would do credit to any first class Nation of the world. The ship of the State which at one stage seemed foundering on the rock of parochial differences and misunderstandings, has now safely reached the harbour. All thanks are due to Allah. On the other hand the country will ever remember with gratitude the hardest and most untiring

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\*Speech not corrected by the Honourable Member.—*Ed. of Deb.*



[The Honourable Mr. Mafizuddin Ahmad]

labour put in during the last two weeks, by the top-ranking leaders of the Nation, headed by the Honourable Mr. Mohammed Ali, to resolve the constitutional deadlock which threatened the very existence of Pakistan. There was an unallayed sincerity and transparent honesty of purpose which pervaded their negotiations and discussions throughout. They started with a grim determination to evolve a way out. Pakistan first and Pakistan last, was the only motto towards which they worked day in and day out. At long last they evolved a formula resolving the deadlock to the satisfaction of all the Units of Pakistan. The leaders have given a proof positive of a high stature statesmanship at this critical period. I have no doubt that the names of Mr. Mohammed Ali and other top-ranking leaders of the Centre, the provinces and the States, will go down in history in letters of gold. Quaid-i-Azam's memorable utterances, "Pakistan has come to stay", have once more come out true.

Sir, I propose to deal mainly with one aspect of the constitution, namely, the Islamic character of the Constitution. In consonance with the ideals, aims and aspirations which inflamed ten crores of Muslims inhabiting the then India, in launching a life-and-death struggle for carving out a homeland for them wherein they would be enabled to order their lives in accordance with the high principles of the Quran and the Sunnah and true to the solemn promises given by Quaid-i-Azam, the Father of the Nation, and other national leaders, the Constitution is going to be patterned on high Islamic principles of equality, fraternity, tolerance and social justice as enunciated by the Quran and the Sunnah. It is this aspect of the Constitution which distinguishes it from the rest of the world constitutions. The superiority and effectiveness of the principles of Islam in the individual and collective life of the humanity was once recognised throughout the world which came under the cool and bracing atmosphere of equality, fair-play and social justice as taught by Islam. After vicissitudes of long years, decades and centuries, we are again in the words of *marhoom* Quaid-i-Millat going to test these principles in the laboratory of Pakistan.

Sir, I hold fast to the faith that truth—eternal truth—will triumph and the darkness will disappear. The Holy Quran says :

*"Ja-al-haqqa wa zahaqal batil ;  
Innal batila kana zahooqa."*

"Truth appeared and what was untrue vanished ;  
Verily, untruth was bound to disappear."

Sir, a discordant note has been struck in some quarters that Islamic Constitution will not suit democracy or a parliamentary system of Government. Sir, to say the least, it can be said that fools rush in where angels fear to tread. It only betrays a colossal ignorance of the basic principles and the messages that Islam held forth before the world about 1,400 years ago. It requires a thorough study to know and understand what Islam is and what Islam stands for. A handbook here and there will not help anybody. Need I tell the House that it is Islam and Islam alone which introduced and broadcast the principles of democracy for the first time in the world. A thorough study of the early Islamic statecraft would reveal that it was an undiluted parliamentary democracy. Even an ordinary citizen was within his rights to ask for an explanation why the *jubba* of the Khalifatul Muslamīn was longer than those of others.

Sir, the Objectives Resolution passed in this House, which forms the preamble of the Constitution and the Directive Principles of State Policy,

which are going to be accepted by the House, clearly provide a bird's eyeview into the entire Constitution. The preamble lays down that the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed and Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam, as set out in the Holy Quran and the *Sunnah*. On the other hand, it unequivocally lays down that adequate provision shall be made for the minorities freely to profess and practise their religion and develop their cultures and also adequate provision shall be made to safeguard the legitimate interest of minorities and backward and depressed classes. On the top of it fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality, shall be guaranteed. The Directive Principles *inter alia* unambiguously lay down that the State should endeavour to secure the basic necessities of life like food, clothing, housing, education and medical relief for the citizens of Pakistan, irrespective of caste or creed, who are temporarily or permanently incapable of earning their livelihood due to unemployment, infirmity, sickness or any other reason. It also takes upon itself the responsibility of improving the standard of living of the common man and also of preventing the concentration of wealth and means of production in the hands of a few to the detriment of the common man, and finally also of reducing the disparity between the highest and lowest strata to the minimum. These are the objectives amongst various others for the attainment of which the State shall strive. When implementation and target reached ours will be, *Insha Allah*, an ideal State in the world.

Lastly, I must congratulate the sponsors of the Basic Principles Committee Report wherein they have laid down that no legislature should enact any law which is repugnant to the Holy Quran and the *Sunnah*. This gives an Islamic character to the whole constitution. It is only in keeping with the ideals and in redemption of the pledge given to the people by the leaders of the Nation. Had it not been there, then all these trials, tribulations, sufferings and blood-shed would have gone for nothing.

Then again I have got to congratulate the Honourable Mr. Mohammed Ali for clearly stating Pakistan's stand *vis-a-vis* Kashmir. I need hardly say here that Kashmir, socially, economically, historically, culturally and ethnologically forms an integral part of Pakistan. The struggle for Pakistan will not be completed until and unless Kashmir is freed from the bondage of slavery. That has been, like a nightmare, pressing hard on her breast. Forty lakhs of our Muslim brethren who are kept there under a stranglehold have been denied the bare rudimentary human rights. Their demand is simple. They want to determine their destiny by a free and unfettered expression of their will. Even this is denied to them under this or that pretext. However much we may hear on the platform or in the press from beyond the frontiers, we, in practice, find a Himalayan barrier placed in between the professions and the observance. The recent occurrences in Kashmir unmistakably show that the talk of free and unfettered plebiscite is a huge hoax played upon the unfortunate Muslims. Despite the strong iron-curtains a little news that trickled down here and there, shows that the streets of Kashmir were tinged with the sacred blood of the Muslim martyrs—the streets of Srinagar went through a blood-bath. Anybody uttering the very name, Pakistan, is sent behind the bar. This is the type of freedom the Muslims are enjoying and this is the pattern of plebiscite that is going to be given to the Muslims. The situation has outstripped all climax. Unless a free, fair and unfettered plebiscite is held in Kashmir as pledged by both the countries of Pakistan and Bharat for determination of their



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destinies by themselves within a reasonable time, the people will take the task upon themselves and find a solution.

**Sardar Bahadur Nawab Mohammad Khan Jogezaï** (N.-W. F. P. : Muslim) : \*Mr. President! Six years have passed since the establishment of Pakistan but the record of our progress during this period is as blank as it was on the day of the creation of Pakistan. Quaid-i-Azam expired after accomplishing the feat of creating unity amongst us but we have once more relapsed into a state of uncertainty and discord. Thanks to our misguided actions, the lofty and worthy spirit that was kindled in the minds of our people has now given place to a feeling of frustration and despondency.

We find that a fair and equitable treatment has not been accorded to the various Provinces of Pakistan. Some of them have been given undue importance while others have been totally neglected to all practical purposes. My province, namely, Baluchistan, is a living instance of such neglect in the matter of its political rights. We do have a cause of complaint against the Centre which has not taken any practical steps to give effect to political reforms in Baluchistan and concede to its rightful claim. Under the leadership of Khan Abdul Qaiyum Khan, however, the North-West Frontier Province has supported us in our demand on more than one occasion and for this I offer thanks to him and the people of his province on behalf of Baluchistan. I trust that the representatives from other provinces too would lend us their moral support in our efforts to obtain what is due to us. I am convinced that the Government has no argument or excuse for withholding political reforms from the people of Baluchistan. The late Quaid-i-Azam and his colleagues had repeatedly given us the assurance that Baluchistan would be given its democratic rights. But we are sorry to see that the persons claiming to follow in the footsteps of the late Quaid have not yet made good the pledges he had given to the people of Baluchistan. Apart from this, the oppressed masses of my province can claim, as a matter of democratic right, to have one of their representatives in the Central Government where he may voice the views of the proud tribesmen of Baluchistan. I, therefore, demand with all the emphasis at my command that political reforms should be fully given effect to in Baluchistan.

The people of my province not only desire but also claim as a matter of right that they should be given their due share in the foreign as well as the internal services of the State. We had been patiently waiting for the reforms to come into effect for the last six years. The result being nil, I would very much like to know the sin in punishment of which we are being denied our right. The famous Fourteen Points laid down by Quaid-i-Azam in 1927 included the reforms for Baluchistan. Thereafter, this demand was repeated in every subsequent annual Session of the All-India Muslim League. In 1938, Mr. Mushtaq Ahmad Gurnani moved a Resolution in the annual Session of the All-India Muslim League demanding once again a status for Baluchistan equal to that of the other provinces of India and the promulgation of political reforms. But in spite of the fact that the very persons who had initiated this move are at the helm of affairs and that the Muslim League is in power today, Baluchistan is being deprived of the rights which these gentlemen had themselves demanded some fifteen years ago from the foreign Government. Sir, as a result of this neglectful treatment for the last six years, the people of my province have begun to feel more frustrated and dissatisfied. I would like to make it clear that the people of Baluchistan are not prepared to tolerate this state of affairs for any length of time. As a representative

\* English translation of the uncorrected Urdu speech.

of that province, it is my duty to raise my voice in support of the demand of its people for immediately bringing the political status of their province at par with that of the other provinces of Pakistan. This demand fits in quite squarely with the dictates of justice as well as principles of democracy.

I further demand that the genuine inhabitants of my province should be given their due share in the foreign trade and industry of the country and all proper help should be extended to those who are interested in these enterprises.

**The Honourable Mr. Abdul Hamid** (East Bengal : Muslim) : \*Sir, rising to speak on this solemn occasion, I should not forget the Architect of Pakistan, whose august personality, whose unflinching determination, and whose faith brought Pakistan into being. So long as gratitude constitutes a feature of the human mind, so long his memory will remain enshrined in the bosom of every Pakistani national.

Sir, I must also thank the Members of the Basic Principles Committee who have produced the report. I know there are differences of opinion. Well, after all, their labour has given us something to go upon. My only complaint is that, for reasons, some of which were insurmountable and some of which were surmountable, the Report was handed over to us rather late. Sir, I must frankly confess that I find certain difficulties in dealing with the report as my opinions with regard to some of the matters contained in the Report have not yet crystallized.

Sir, our future Constitution is proposed to be on the lines of democracy. I am not a student of History, Sir, but the principle of democracy, as generally conceived, was intended for application in very much smaller areas, as small a population as, for example, the City State of Greece. Well, when that principle was applied to bigger areas and bigger populations, then the idea of federation was invoked. Small units combined to make a federation. We have already decided in accepting the Objectives Resolution that the Constitution of Pakistan should be federal. Complaints have been made here and there that it does not appeal to the principle of democracy but the initial difficulty is that you have minimum set of standards which it is difficult to follow. You are applying the principle for areas and populations for which it was never originally meant. Certain limitations will be there; for example, the Federation of the United States. Does it answer the requirement of an abstract and pure principle of democracy? If it does, why has so much power been entrusted to the Head of the State, to the President. This is the very negation of extreme democracy. So, while you apply the principle, however good it might be, to circumstances different to those for which it was originally intended to be applicable, you have got to make some modification, you have to bring in some safeguards. Some may have an honest opinion whether we are at the present moment fit for an extreme form of democracy and whether in the matter of adult franchise, which you have already decided to give, the education of the average voter justifies it. Well, we have got to provide for something so that democracy may not degenerate into what is called mobocracy, but I do not think, Sir, that the principle of democracy is being modified here and there. That can be an argument against the proposals contained in the report or the form you will ultimately give to the recommendations of the report.

Sir, even coming to federation, the idea of federation conceives a group of units, which are all of equal areas, of equal importance and equally represented in the Centre. A critic may ask the question whether you have got your units of equal size and equal importance or whether you are giving equal representation to them in the Centre. The

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\*Speech not corrected by the Honourable Member.—*Ed. of Deb.*



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underlying idea in framing a federal constitution is to obviate the possibility of a unit or a combination of units ruling the rest ; so far as the other units are concerned, it will not be self-rule, it will be dependance, and we have got to obviate that. Objection might also be taken on the ground of unworkability of the compromise formula put forward by our Prime Minister. Well, that at least re-assures the minds of the different units of the Federation. That is a formula which has been accepted by everybody and federation cannot be there unless every unit thereof willingly accepts the association. Therefore, if there is any element of unworkability in the arrangement which is made and which is universally accepted in Pakistan, well, we shall try to cross the bridge when we go near it but for the moment let us combine into one federation to which we are committed by accepting the Objectives Resolution.

Sir, the framers of this report at the very outset reproduce the Objectives Resolution, which says—

“...sovereignty over the entire Universe belongs to God Almighty alone.”

I am very much enamoured of this recommendation. At a time when different ideologies are creating so much trouble in the world, when individuals and groups have come to the realisation that our freedom cannot be complete unless the sovereignty of God is removed from the earth, this definite assertion about the sovereignty of God over the entire Universe is very significant and this indicates that while the other States in the world may be wedded to one ideology or the other, we want to stick to Islamic ideology. We want to achieve all that is embodied in the principle of social justice ; we want to do good to the poor. Our report itself says that it must endeavour to raise the lot of the poor man but we want to do everything and more by keeping a link with the Almighty, without which Pakistanis at any rate feel that there is something missing.

Well, Sir, we have spoken from platforms that our Constitution is going to be an Islamic Constitution : a Constitution where the principles of Islam and Islamic social justice will have full play. It is laid down both in the Objectives Resolution and we have accepted it as a directive principle of State policy also—Clause 3 also says so—that nothing is to be done which is against the Quran and Sunnah.

There is a possibility of some misgiving in the minds of the minorities. What I mean to say is that if the members of the minorities be true historians of Islam and its dominion in the world, they will be the last to deny that the more the principle of Islam is injected into the Constitution, the more will there be safeguards for them. This is a matter of past history. This was at once a source of the strength of the Islamic regime and its weakness. Sir, when the illiterate Arabs fought against the Roman and the Persian Emperors, what was that they cared for most of all? It was the treatment they meted out to their minorities that destroyed the moral support of those Emperors. The people smarting under the operation of this Imperialistic yoke were pining to come under the British regime for getting Islamic justice. That was the stand of Islam. The more and more Islamic principles come into operation, the more there will be safety and safeguards for the minorities of Pakistan.

Sir, much has been said whether our Government should be unicameral or bicameral. In this matter I will invite the Members of the House not to be led away by sentiments, but to derive benefit from the wisdom of centuries. We are framing a federal constitution, where unicameral system would be more suitable or bicameral system remains to be seen. Sir, the history will tell you that most of the Governments in the world are bicameral in nature. Even the House of Lords, where much threat

has been offered by way of amendments to end it, still remains there and functions as before. Leave out House of Lords, because Britishers are traditionalists. Go to America, whose federal system you are going to adopt. What form of Government have they got? It is bicameral in the Centre; nay it is bicameral even in the States of America, barring one State perhaps, if I remember aright. Minus the constitution of South Africa, you will not find there is one Constitution which is unicameral. The room for second thought is there. It has been shown by experience that even in temperate zones it is very necessary. It is very much more necessary in Tropics, where people are more emotional than those who live in cool climate. In my opinion it is very essential and I was very sorry to hear that it was being opposed even from the Opposition. It is my honest view that for the minorities it will prove to be the greatest safeguard.

Sir, one vexed question is there about separate electorates. What we consider good for the goose, we must consider it good for the gander. Muslims during the British days fought tooth and nail for separate electorates, although once at the All-India Muslim League Conference out of our predilection a resolution was passed for the time being in favour of joint electorate, but later that decision was changed. Now, Sir, they will say that we held a meeting here and there and the resolutions were passed, but even now we are getting resolution passed by the members of that community that separate electorate should be given as they are as much advanced as Caste Hindus. Therefore they must have separate electorates. Sir, it is a matter that does not rest with us. It is a matter for them to come to a compromise with the members of their community of whatever caste or creed that there may be. It is a matter for them to decide. If there is unanimity amongst them, the Government of Pakistan may not like to go in for it.

Sir, it has also been said that the Unit must be absolutely autonomous. As I have already indicated, there are certain drawbacks in the action we have taken in the past and it will be necessary to keep certain powers in the hands of the Centre so that the possibility of dismemberment may not be there. So, for the time being I think the Central Government ought not to be made absolutely weak. Yet the list is not final. The list is before the Honourable Members. Taking into view all the safeguards that are necessary for keeping Pakistan a cohesive whole, any reasonable modification might be made in the List. But, Sir, for obvious reasons, this autonomy should not go to the length where it may endanger the cohesion of or Pakistan itself.

*(Interruptions)*

Well, Sir, it is very well to take up this matter or that here. I will ask Sardar Shaukat Hyat Khan to forget his past and sit here like a sound, sober, intelligent and unemotional politician in the matter of making a constitution for Pakistan. The constitution that you will be making is not for today, not for tomorrow, but succeeding generations will bless or curse you—bless you for any good that you do, or curse you for any mistake that you may make. You must take all these things into consideration before you play to the gallery in the matter of framing the constitution.

Sir, as I have already said, some of the matters embodied in the Report are important constitutional issues. They are not matters of the constitution of a High Court, discussion of which is not at all relevant here. I hope other Members will kindly bear this fact in mind, and with these few words, Sir, I appeal to the Honourable Members that however much they may differ here, they should not be guided by baser motives



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in a matter so vital to the country as the future Constitution of Pakistan. They should always be guided by the best of motives to arrive at a solution in regard to the constitution, and, again, I assure the minorities that it is my article of faith that Islam means very great safeguard and safety to the minorities.

**Sardar Shaukat Hyat Khan** (Punjab : Muslim) : Sir, I have heard in the last few days' speeches, good and bad, long speeches and short speeches, but most of the people and my friends have been speaking with their tongues in their cheeks. We are here to discuss a very serious problem. We are here to discuss the future mode of Government which is going to govern the coming generations of this country. Therefore, we are not here as Party members of the Muslim League or Members of the Opposition, but we are here as representatives of the people of Pakistan, who have on one unfortunate day reposed their confidence in this House to furnish them with a constitution. It has taken this House six long years of internal politics and intrigues to decide—after this long period,—some sort of a thing which they want to place before the country. I will not go into the details of what happened in the past five years. Why they failed; why they did not come to any conclusion. I will just come straight to the Constitution. What could have been done about the various units and the Centre; what relationship could have been brought about between the West and the East? These were the problems which have been worrying our politicians who have an eye on the voters and who want to come back in power. There could only be two solutions of the problem. One solution was confederation where the two units, one in the East and the other in the West, had equal powers and there was no danger of fissiparous tendencies or people treading on each other's toes and breaking away the ties and bonds of friendship and brotherhood between them. In order to save Pakistan from those fissiparous tendencies some people did—and I was one of them—suggest that probably one confederation was the only way whereby we could keep this country together; where we could work together and live together without one treading over the toes of the other. However, I see that the majority of us have thought otherwise and the people, too, mostly, in both wings of Pakistan, seem ready to accept their solution rather than ours. It is only time that will show whether these gentlemen, my honourable friends opposite, have been correct or the people holding a different view were correct. I can only say that since the majority has decided on a certain line we in the minority can only warm you then it is your choice.

There were three schemes of a federation. In a federation there is always the question of give-and-take. There are to be adjustments within units who are trying to come together and who are willing to live together in the future. One of three schemes was presented in 1950—about three years ago. Another scheme was presented last year in December and one of those schemes has come before us now. Of all the three, looking from the federation point of view and seeing the federal structures of other countries, I see that the present scheme which is before us now is nearest to the constitution of a federation in identical circumstances. We cannot compare ourselves with America because there is no single unit which has got such a big population that it can preponderate over all others. Similarly, if you take other federal constitutions of the world you do not find anywhere one unit has got a greater majority than the others. Looking around the world one finds a solitary example of Soviet Russia where the federal system exists and where one of the federating units is bigger than all the units put together. There the big

unit made sacrifices on behalf of its people so that there may be mutual trust and lesser amount of friction and the smaller brothers in the federation will feel that they are not being over-ruled and mastered by the bigger brother who has got a larger population. That is the only example in the world where we can find one unit having dominating population over the rest. From that standard the report presented to us is the nearest approach. But, Sir, in that constitution and in our constitution there is a difference. They follow a certain ideology—it is almost a faith with them. They stick to that ideology and were guided by that faith in their constitution-making whereas we here profess an ideology hypocritically and overlook it when we are making the constitution. Sir, the Report of the Basic Principles Committee which is before us, if it is taken as it is, you will find that it is nothing but hypocrisy. Shed hypocrisy from it and you might find that there is a reasonable basis on which we can agree if there is going to be a federal constitution. Sir, from the word “a” till the last word our leaders have been playing to the gallery. Not only that, they have been trying to hoodwink the Muslim nation that it is going to be an Islamic constitution and this, that and the other, and all the time they have been saying one thing and meaning another. They have produced a hotch-potch of various ideals which is not even true to the faith which they proclaim before the world. If you are going to follow Islam and have an Islamic constitution the first thing to be done is that you try to behave yourselves as Mussalmans. You try to show your faith in Islam and prove it to the people that you are acting on the principles of Islam. You say that in future such and such thing is going to happen, but I ask my honourable friend Sardar Abdur Rab Nishtar and his other colleagues: what stops you here to practise Islam which you intend to practise in another six months’ time. Is the world going to change; is Pakistan going to take a new hue; is Pakistan going to become overnight different from what it is today? Well! these very gentlemen will come back to the new Assembly. These very gentlemen will be law makers of new Pakistan. Why do not they make a start now; why do they wait till that date when this constitution will be enforced; why not start this very moment and become honest and start practising what they say and start being just as good Mussalmans as they should be according to the principles of Islam?

Therefore, Sir, I will first try to prove to you how hypocritical they have been in bringing forward this Basic Principles Committee Report. I will start with the “Head of the State.” They say that it will be an Islamic Constitution because the Head of the State will be a Mussalman! Imagine the hypocrisy of this? Only a few months ago the Fundamental Rights were passed. I will try to read a passage from that and shall show you how we are not even living up to those Fundamental Rights which these very great Islamic leaders of our country passed and which were brought forward by these very gentlemen who are today bringing forward the Basic Principles Committee Report. It is said in one section that every duly qualified citizen shall be eligible to appointment in the service of the State irrespective of religion, race, caste, sex, descent or place of birth. These very gentlemen passed those fundamental rights in this very august House and today they bring forward the Basic Principles Committee Report just to play to the gallery. They say that only a Mussalman will be the Head of the State. I am a Mussalman and I am just as good a Mussalman as any one of them. But I am not a Mussalman who makes promises to the minorities; makes them sign a report; makes them agree to a thing and just after a few months brings forward another thing which is quite opposite to what was agreed to earlier. Now, Sir, is it a Report of the Basic Principles

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or it is a report of hypocrisy? Sir, I imagine that the population of this country will be 85 per cent. Muslim. If a Muslim cannot be returned as Head of the State with 85 per cent. Muslim population and a Hindu is returned with a population of only 15 per cent., that Hindu must be a Saint. If he is such a good person that he can command the respect and he can get the votes of the Muslim people who are the majority of the voters, then, Sir, he could not be a Hindu, he must be a *Dewta* if he can get elected as Head of the State. So why put it hypocritically, why try to say to the world that he will be a Muslim? Why put it that he should be a Muslim in a country where 85 per cent. of the Muslims live? Are they not competent to judge who is their representative. I can say that the Muslim League is not going to be beaten for the coming 5 or 10 years and if the League Party comes in power then surely the Head of the State is going to be a Muslim. He will be elected by the same party. Therefore why put this provision there? Whom are you trying to please—the Muslims? Whom are you trying to displease—the minorities? The question is they are even doing things which must prick their conscience. They seem to be making a fun of our poor illiterate public opinion. They are trying to please the people by giving a little morsel here and a little morsel there which is absolutely meaningless. Now, Sir, this provision goes against the Fundamental Rights.

Then I ask my honourable friends who know Islam and who have given their life to the study of Islam. Of course I am not so learned nor so well-versed in the practice of Islam which they seem to know better. I ask them if the Muslim people had, at any stage in the history or during the time of the Quran or Sunnah, a treaty had been signed with non-Muslims what would they have done? What did the Prophet do and what did Islam enjoin them to do in this respect? Whether they were to keep that treaty or to break that treaty which you had made with the non-Muslims? Is it Islamic, I ask them as I am not credited to know, they probably know much better, to break a solemn treaty which the Quaid had made with the minorities afterwards just by sheer force of their majority and numbers is not Islam. Is it Islamic, is it permissible, has it got an equal in history of Islam where a solemn covenant and treaty has been made and that should have been broken afterwards? Well, Sir, Pakistan came into being as a result of the treaty between the Hindus and the Mussalmans of India. In that treaty you promised fullest protection, full equality, full opportunity to the minority communities whom you took up in Pakistan and that treaty you have broken by sheer force of numbers in the Basic Principles Committee Report as you have put it forward now. If you utilize your majority to break that treaty then you are as much a sinner against Islam as any one whom you call 'Kafir'. Therefore, Sir, although I do not belong to that community, I do not belong to their interest, I do not know what their conditions are—I am a Mussalman—and one who had fought for Pakistan, as one who did not lag behind you gentlemen when we were fighting for the achievement of Pakistan I say we made promises and as Muslims it is your duty to keep those promises, today you should fulfil those promises in the constitution of your country. I know they will try to distort and villify but I am not afraid, Sir, if these gentlemen will go and say: 'This Shaukat Hyat has got up and tried to save Hindus and plead their case.' I am not pleading their case; I am not supporting them; I am only pleading the case of Islam, which you are trying to defame, I am pleading the case of Islam in front of the world by showing that by trying to break your treaties with non-Muslims you are demonstrating that in Islam such a thing is permissible. If even they



can live and grow who are liars—who go back on their solemn promises, who can break their solemn treaties then Islam will be very badly injured and will fall in the estimation of other people. If this is going to be your Pakistan and Islam it is about time that we had some new set of Muslims—eminent Muslims—to come forward and make the constitution—a constitution which would be an Islamic Constitution in the real sense and not a constitution of hypocrisy as put forward by my friends opposite.

There the thing does not end, Sir, and now I come to the next important matter. People are frightened to talk about it; people do not discuss it these days—that is the famous child of the imagination of my friend Sardar Abdur Rab Nishtar and his colleagues, i.e., the Mullah Board.

**Mr. Ghyasuddin Pathan** (East Bengal : Muslim) : There is no Mullah Board in the Basic Principles Committee Report. Please read it and then say.

**Sardar Shaukat Hyat Khan** : Sir, I have read it and now I am talking about this report which you produced in December. In this report under Chapter III it is said 'No Legislature should enact any law which is repugnant to the Holy Quran and Sunnah'. I am talking about that section which you have incorporated in this report and where you have shown how laws against Islam cannot be enacted and how it is going to be decided that a law is against Islam.

**The Honourable Mr. Mafizuddin Ahmad** : But where is the Mullah Board ?

**Mr. Shamsur Rahman** (East Bengal : Muslim) : There is no Mullah Board.

**Sardar Shaukat Hyat Khan** : I will come to that. Do not get impatient. Sir, they say here that no law will be made which is against the injunctions of the Quran or the Sunnah. That is what they say. Now they have stated this and then how do they decide this. They say it will go back to certain people, who will pronounce upon it; after they have pronounced upon it then it will go back to the Assembly and then the Assembly can accept or reject it. But, Sir, in the meanwhile these gentlemen do not seem to realize that so many *fatwas* had already been given and by the time it goes back to the Assembly and no Assembly would be in a position to pass that measure for fear of being declared 'Kafir'. No Assembly would be able to face the public opinion created outside and take a right decision in accepting or rejecting these proposals even if they get the sanction of those appointed as advisers under this constitution. Now, Sir, why are we playing about in this manner? Whom are you going to please or deceive by this device? Do you want to make this provision to go and say that we are going very Islamic? But what will happen is that those gentlemen who will be appointed as your advisers in this matter to pronounce whether a thing is Islamic or non-Islamic, first they will be called Kafirs by all those who do not get a seat in that Board of advisers and who think they are fit enough to be there and who feel that they should sit on the advisory board. That will be the first time when the *fatwa* of *Kufr* will be given under this constitution. Then if they do not declare certain laws to be un-Islamic they will be called Kafirs, in fact if the Assembly as a whole passes such a law it will be called 'Kafirs'. Now why do not you trust the Members of the Assembly? If supposing an enactment comes here before the Assembly the Muslims will be in a majority and why do not you allow them to decide things according to their conscience and according to Islam? If you do so that would be absolutely proper for the country.

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But if you follow the scheme of things as given in this report you would not be able to do many things necessary for the country because every one of the Members will be called a Kafir whenever they go outside the House. Well what are they doing; whom are they going to appease—the Mullah or the people or the nation? Now are these people who will sit in judgment over the Assembly, going to be elected on the basis of adult franchise? No, Sir, the Members of the Assembly will be elected on adult franchise basis by the votes of the Muslim community. Now if these Maulvis are popular with the masses they will surely get elected to the Assembly by the vote of the people. Now if they will be elected why are you going to bar their way to the Assembly? Now if these Maulvis who claim to know Islam, are really popular with the people then no one will find it easier to come into the Assembly than our Maulvis who are each day holding prayers or *Namaz*, five times a day. They get the opportunity to hold meetings five times a day and once a week a public meeting where they can preach their political views year in and year out. They can propagate their politics so easily and even then if the people reject them at the polls then there is something very wrong and it is about time that they were not at all elected. Then if they are unable to come by straightforward election through the votes of the Muslims whom they are supposed to represent then why should they be taken in through back-door—through the device of this Mullah Board? Whom are you going to please then? Now if the electorate, who are going to be Muslims—a majority of them at least—do not elect them what right have they got to come in by another method? It is making a hoax of the Basic Principles Committee Report. I say, Sir, if the Muslims do not elect them what right they have to decide what is according to the Quran and Sunnah and what is against it? We the Members of this House who are to be elected directly on adult franchise of Muslims, when we come here, then it is our incumbent duty to decide about matters of law. We are not here playing *gulli danda*; we are going to be here to come and make and frame laws; we are going to be here to put our heads together to evolve certain laws and rules to govern the country by which we wait to regulate the life of our people. If we can make laws, then surely enough, we have got brains enough to come to conclusions as to what is against Islam and what is in favour of Islam. If 85 per cent. of the Muslims elected by the Muslim votes, are unable to give view on Islam and on the legislation on Islam, then I do not know, Sir, where you will find that saint who is going to come and adjudicate matters for us. It is all subterfuge, Sir, and it is trying to hoodwink the people. We are the people who are to be elected on the Muslim votes and we should come here and work and see what we decide is according to Islam and it cannot be against Quran and Sunnah, because none of us would have given up Islam when we get elected and come to the House as Members and there again, I say,.....

**Syed Khalilur Rehman** (Punjab : Muslim) : But they change colours !

**Sardar Shaukat Hyat Khan** : Sir, if you change colours, you are not a Muslim. If you become something else than Islam, you are not a Muslim. Probably, my humble friend has a different experience on account of his own constant personal contact.

Sir, I was coming down to this that if a proper Mussalman cannot be elected by the Muslims, then I do not know who is going to select these advisers. The advisers are going to be elected by the Ministry; Ministry is going to be selected by the Members of this House and the Members have been selected by the people. Then those people who can select the members are the real people. Then why not leave it to the Members elected to the House?

**Sardar Abdur Rab Khan Nishtar** (Punjab : Muslim) : He who appoints a Judge, can become a Judge himself ?

**Sardar Shaukat Hyat Khan** : Sardar Abdur Rab Nishtar, with all his greatness and eminence, I am sure, should be satisfied that he will find a place in the Legislature however much the Government may oppose it. Therefore, he must have confidence in himself and he need not worry. He can be elected on his own position and eminence as jurist of Islam and he need not have to worry to put down clauses in the Constitution, by which you are trying to hoodwink the whole world. And, see, above all the hypocrisy, he is trying to hoodwink his own people. Therefore, I am absolutely frank, Sir, if Islam means hypocrisy, if Islam means telling the untruth, if Islam means putting up subterfuge, if Islam means trying to produce things like this, then, Sir, I am afraid, my Islam is slightly different from the Islam these gentlemen profess because the Islam I was taught, was not taught in this way, Islam to me means truth. Temporary expedients do not appear in my Islam. I am confident that Muslim people will send the jurists, Muslim people will send eminent stalwarts, who will come and legislate in spite of the fears and in spite of the stumbling block which hypocrites may put in their way. They are in the habit of putting stumbling block of eminent persons coming into our legislature, but they can be rest assured that after this, when they are fully exposed, these Muslim voters are not going to stand any nonsense and they will send people—and I have got fullest confidence—who will be right and proper people. So, let us, therefore, get out of this childish affairs of trying to hoodwink the people in a certain way.

Then, Sir, I have been hearing a great deal about joint electorates and I have been hearing a great deal about separate electorates. It is very interesting to see that this sort of thing was talked of in 1929 and 1930, 1931 and 1932. The subject used to be whether there would be joint electorates or separate electorates. At that time, the majority community used to say "joint electorates" and the minority community used to say "separate electorates". I see that suddenly, in this course of time, these 20 years, rules have been changed and reversed. Now, the minority community is asking for joint electorates and the majority community is asking for separate electorates. Sir, another hypocrisy, another great shame upon the so-called Muslims who are sitting there after the treaty with the minority community. They say we are protecting the rights of the Hindus by giving them separate electorates, but why Hindus ? Their representatives are sitting here and they are as much representatives of Hindus as you are of the Muslims. They are the representatives of the Hindus and they are asking for the joint electorates. Who are you there, Sir, I ask you, to say that there should be joint electorates and say, "Look Chattopadhyaya ! you do not understand the interests of the Hindu community, you do not understand the Hindu people at all ; we know better than you ; we are the great fighters of justice here and we are best spokesmen of Hindus." If you are the spokesmen of Hindus, then give up the spokesmanship of Muslims ; if you are the spokesmen of Muslims, then leave the Hindu community to itself. You have got one crore of people on trust with you—you have got these people on trust according to a treaty—you have left four crores of your own people in the hands of these people on the other side of the border. And, then if you let these people down, you are letting down those Muslims, Sardar Abdur Rab Nishtar, whom you gave promises that Pakistan will be the greatest safeguard for them. These four crore Muslims in India, you are putting them at the mercy of others. If you treat this small community here in a way, other than that they want themselves to be treated, Sir, justice demands, justice to the minorities



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according to Islam. If they understand Islam, do justice to the minority according to a treaty, an Islamic treaty; if they understand truth and justice to the minority community in their own country, and if they understand justice in law, then let them be just. You have no right, nor we have a right, to come and enforce a system on our Hindus, a political system on our Hindus, our minorities, which is against the will of the Hindus sitting here.

**The Honourable Mr. Mafizuddin Ahmed:** 70 lakhs of Hindus want separate electorates.

**Shri Sris Chandra Chattopadhyaya** (East Bengal : General) : No, no. *(Interruptions from the Congress Benches).*

**Shri Dharendra Nath Dutta** (East Bengal : General) : You are the first man who has said this.

*(Interruptions from the Congress Benches).*

**Sardar Shaukat Hyat Khan:** Sir, the gentleman from there knows that according to the principles of Islam, you cannot force a Hindu community to have separate electorates. If I turn round and say you do not represent the Muslims, will you not object to it. Here, they are as much representatives of Hindus, as you are representatives of Muslims of Pakistan. Therefore, you have no right to say and legislate anything for those who are our minorities and who are our trust.

**The Honourable Mr. Mafizuddin Ahmad:** I was only telling that 70 lakhs of Scheduled Caste want separate electorate.

**Several Members from Congress Benches:** No, no. That is a falsehood.

**Sardar Shaukat Hyat Khan:** Sir, by getting a couple of members here sitting on your side and by various other methods, you do not win over a community. If anything, let there be a referendum within backward part of the community itself and decide what they want. Let them decide between themselves what the differences are and what they are going to do, but we have no right, the majority has no right, to go and interfere in how the life and the politics of Chattopadhyaya is going to be governed. Have you forgotten what your Prophet did to the Jews and the Christians? Do not you remember how he kept those promises and how he made everyone act upon it.

**Mr. President:** Sardar Shaukat Hyat Khan! Please keep to the point.

**Sardar Shaukat Hyat Khan:** Through, you, Sir, I ask my honourable friends if they remember that there was a person known as the Prophet also. The Prophet of Islam had a certain method of living. He had minorities with him; he had Jews with him; he had Christians with him, and he had other minorities with him. How did he treat them? He treated them according to the agreement, according to the justice, understanding and promise he gave to them. He did not go back on his promise as the majority have shown to the minorities here as it would appear from the reports. Have not they gone back on their promises in one way? When the minorities ask for joint electorate, it is denied to them. Why the Hindus do not have this right of joint electorate? You have got no right to give them separate electorate when they ask for joint electorate. You give them something which they do not want. It would not only affect those gentlemen who are sitting here, but it would affect the future generations of these people. We would ask the gentlemen sitting opposite to show me some reason whereby they are trying to impose a certain system on a certain people. Again, Sir, while repeating myself I will say that think of the 4 crores of Muslims in

India who were in forefront in the fight for the establishment of Pakistan, and treat the minorities in Pakistan in the way you expect the Hindus in India to treat the 4 crores of Muslims there.....

**Mr. Mohammad Abul Quasem** (East Bengal: Muslim): Will the Honourable Member.....

**Mr. President:** Order! order! There should not be any interference.

**Sardar Shaukat Hyat Khan:** Sir, perhaps the Honourable Member does not like to hear me because on too many occasions I said what was true and he does not want the truth to prevail in this Assembly.

Sir, I now come to the powers of the Provinces and the Centre. My honourable friend Mr. Abdul Hamid has just now said that there should be great powers with the Centre and when I asked him: "Are you talking as the Minister of the Province of Bengal or are you speaking of your own?", he could not answer me, because, Sir, election is going to be held in Bengal very soon and so Mr. Abdul Hamid will know what his words will mean to the people of East Bengal in three months' time. I know they are worried. They think of the electorates the whole time. It is not one election, Sir. It is the election for the whole time, for your children and your grand-children and great-grand-children for which you are legislating and enacting this law. Today, therefore, this matter of being elected or not elected by the voters of today should not come in our way. We should think of the good and the ultimate good of our generations to come when we frame the constitution of our country.

Now I come to the residuary powers. Sir, I dare my friend Mr. Abdul Hamid say to go and tell the people of his province that residuary powers and all the centralized powers should remain with the Centre. I dare him and I dare every other Bengali M. C. A.s including Mr. Nurul Amin, Chief Minister of Bengal, say that they do not want residuary powers with their Province and do not want greatest autonomy for their Province. The essence of good federation, where mutual trust and mutual understanding is going to be the basis, is that there should be no such thing in your constitution which may give one Unit or another the idea that their rights are being trampled. There should not be uttered any such thing from any platform. There should not be any misunderstanding on the part of the people that their power would be usurped by the Central authority. If there would be any such sort of misunderstanding on the part of the people of the Units, then you would naturally be inviting dangers and weakness for yourself, if you are not careful. Therefore, the basis of federation—whatever the Central Ministers or ex-Ministers may say—is that the fullest possible autonomy should be given to the Provinces. The Provinces should deal with their own matters themselves. Only certain subjects which affect the entire nation such as Defence, the Foreign Affairs, the Currency, the Communication, should be given to the Centre. The other Departments which are mainly the concern of the Provincial Governments should be left over to the Provinces. We are making the Provinces like Municipal Committees. You are not giving them all their resources and taxation is being centralized in the Centre, so that they can keep their stranglehold on the Provinces. If you want to have perfect understanding with the Provinces which are your Units and which are going to make this federation—federation is certainly an outcome of the agreement between the Provinces and the Units—then these Units should be independent in the matter of their education and other nation-building activities. People in the Provinces ask for education, they ask for industry; they ask for other amenities of life. The Provincial Governments do not enjoy these powers and when they do not have the resources in their hands, they will have to bear the brunt and stand as a screen before the

[Sardar Shaukat Hyat Khan]

Central Government. They have got no resources. They always beg from the Centre for some grant. I want to assure you, Sir, that if this system of centralization of power—however strong its supporters may be in the Cabinet of the Central Government—will hold back the progress of our country and impair our love and loyalty for our country. Therefore, Sir, I am asking in the name of justice, in the name of the people who are going to represent and in the name of the Provinces that the Units should be given their means so that they can develop their resources according to their requirements and own systems. I hope—I am sure I will get the support of all the Provincial Ministers and ex-Ministers also in this respect, though some of them may have changed their minds, they may have changed their outlook, they may have changed their loyalty. I ask what good they could have done if the resources which they wanted could have been given to them for their development. I know people do change when they get more and more.

**The Honourable Khan Abdul Qaiyum Khan** (N.-W. F. P. : Muslim) : Whenever we asked for anything from the Centre, it was never refused.

**Sardar Shaukat Hyat Khan** : I am sure it was never refused. But how he would have behaved if he would not have received the grant. He of course got what he wanted as he was blue-eyed boy of the Central Government, how should it be that he could not have received the support and help from the Central Government. But in the case of other Provinces, help and assistance were not readily forthcoming from the Central Government because they might not be so lucky and they might not have the charm which my friend could wield over the Central Ministers at that time. I am not talking of my friend, Mr. Qaiyum Khan. I am talking of lesser people who might not have those means to attract the Centre's bounty upon themselves. Sir, he should not forget himself. There is a story of *Kawwa* and the *Hans* where the *Kawwa* took the feathers of the *Hans* and it forgot itself with a sad end. Therefore, Sir, with my due respect to the Honourable Ministers and the ex-Ministers and the Chief Ministers, that if they have changed their demand of their Provinces, in the interest of the public and in the interest of the Provinces, I say to them give the Provinces chance. Our call is autonomy, autonomy, and autonomy. We are prepared to give only those subjects to the Centre which affect the entire nation, like Defence, Foreign Affairs and Currency and we will give them full power and the resources required for getting these subjects functioning efficiently, but the residuary powers must remain with the provinces. We are not willing to vest them in the Central caucus. We are still the sovereign bodies, which is making the Federation and we want to keep the sovereign right of residuary power, as in every other Federation in the world, with the Units and not with the Centre. Take America; take other Federations. The Honourable the Law Minister will probably know better that the residuary powers should remain.....(Interruptions).

**The Honourable Mr. A. K. Brohi** (Sind : Muslim) : What about Canada ?

**Sardar Shaukat Hyat Khan** : I am glad, the Honourable Member has.....

**Mr. President** : Order ! order ! I hope that the other Honourable Members will not be provoked. They know how the Honourable Member, who is now on his legs, is trying to provoke them.

**Sardar Shaukat Hyat Khan** : I am very grateful to you. You have told them what new-comers would learn after long and hard experience.

Sir, I was going to say that I am very happy that the Honourable Member has thought of Canada, because eventually, probably some years hence, when he has to look for refuge he will have to go to Canada—because he may have to look for refuge and he may have to go to that country where refuge is now so easily available. So I am not talking about Canada; I am talking about older Federations and older systems whereby federations were brought about and he should know that too. Canada became a Federation recently—recently from the point of view of history.

**Sardar Abdur Rab Khan Nishtar :** About 90 years ago.

**Sardar Shaukat Hyat Khan :** Yes about 90 years ago, which I think is recent from the point of view of history. You are still going about.

Sir, I would say that in all the known and recognised Federations the residuary power is with the Units because it ensures that the Units which will have a sort of alliance must have some right about that alliance and that can only be done if the residuary power is left with them. The major portion of the Central List should go to the provinces and the residuary power should also rest with the Provinces in the interests of Pakistan and in the interest of all that we are trying to achieve.

Now, Sir, I have dispassionately tried to bring out the defects in the Basic Principles Committee's Report. There are many others which I hope I shall have the occasion to come and speak about when they are discussed—I mean when the Report is discussed clause by clause—but the major and glaring defects I have mentioned. I hope in the interest of their country, in the interest of their Party, in the interest of justice and in the interest of Islam they will see that those provisions which are against these things are removed.

**Mr. Mohammad Abul Quasem :** \*Mr. President! Sir, praise be to Allah that we have been able today to consider the Basic Principles Committee Report for framing of the Constitution of this Islamic State, for the establishment of which 10 crores of Muslims in the Pakistan-Bharat sub-continent fought as one for having a homeland for the Muslims. With the removal of Khwaja Nazimuddin and installation of the Honourable Mr. Mohammed Ali, a section of the Press started propaganda that Pakistan shall have a secular Constitution. You know, Sir, this perturbed the entire Muslim population of Pakistan. This propaganda reached its zenith while it was announced that an interim constitution will be introduced and passed. There were objections from the Press and the platforms.....

**Mr. President :** Mr. Abul Quasem! Why do you raise that question now? You should try to be brief and relevant.

**Mr. Mohammad Abul Quasem :** \*I was only trying to give an expression to the feeling of the people about this matter. The news created sensation throughout Pakistan and the Muslims were very much perturbed over the matter. There were insistent demands from the Press and the platform to give up the idea of the Interim Constitution and to proceed with the consideration of the Basic Principles Committee Report.

**Mr. President :** I think you should not refer to the Interim Constitution at all. There is no such question before the House at all.

**Mr. Mohammad Abul Quasem :** \*However, Sir, it is gratifying to note that today those who are at the helm of affairs have responded favourably to the call of the people and we are now considering this Report. I am not going to deal with this point any more.

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\*Speech not corrected by the Honourable Member.—Ed. of Deb.



[Mr. Mohammad Abul Quasem]

Now, Sir, I would like to make some brief observations on the provisions of the Basic Principles Committee Report. Before I enter into the details I must express my gratefulness to the Members of the Basic Principles Committee, as well as those of the Board of Talimaat-i-Islamia, for their sincere and honest efforts to present this report before the House.

The Objectives Resolution has been rightly placed as the Preamble. This is the essence of the provisions that follow. The Objectives Resolution which was moved by our beloved and revered leader, the Quaid-i-Millat, has been given, the sanctity it well deserved. Sovereignty belongs to Allah the Almighty and the Islamic State of Pakistan is a gift of Allah, wherein the Mussalmans shall get the State patronage to order their individual and collective lives on the ideals of Islam. The fundamental rights of equality of status and of opportunity, freedom of thought and expression as envisaged in Islam are guaranteed. The minorities are free to profess and practise their religions in Pakistan. All their legitimate interests are guaranteed by Islam.

The Directive Principles of State policy have laid down provisions for prohibition of drinking, gambling, prostitution, *Riba* and all other matters and have made positive provision to set up an organisation to raise the morale of the people by acquainting them with the teachings of Islam. This organization shall ask the people to do what is right and prevent the people from doing what is wrong. The State policy will be directed towards the improvement of the standard of living of the common man and establish Islamic social order. May Allah help us to reach the ideals of Islam in all its spheres!

There has been a controversy for some time past regarding the question of deciding the repugnancy of any law to the Holy Quran and the Sunnah. Sir, it is a fact that we have already accepted the principle that no law should be enacted which is repugnant to the Holy Quran and the Sunnah, but how to decide it? It was proposed by the Basic Principles Committee that a Committee should be set up and that Committee should see whether any law is repugnant to the Quran and the Sunnah and that on receipt of the unanimous report of that Committee the Legislature should decide whether it was a departure or not, but now there have been objections to this recommendation from all quarters—from the Ulema as well as lawyers. I would, therefore, request the Honourable Members of this House to do away with this Committee and to give the jurisdiction to the Federal Court to decide the repugnancy or otherwise of the law which will be passed in Pakistan. We can easily depend on the Federal Court, which has got the right to decide the matter judicially.

Objections have been raised against a mandatory provision for having a Muslim as Head of the State. We would not have cared to have made such a provision if we could strictly follow the Islamic principles in the matter of giving franchise. Sir, non-Muslims, strictly speaking, should have no vote in the matter of administration but here is a deviation from the Islamic principles; that we are recognizing franchise for non-Muslims in the matter of administration. That is why we have to make this mandatory provision that the Head of the State must be a Muslim. Objection has been raised to this but all the civilized countries—almost all the civilized countries—have accepted this and they have given much importance to religion, but it is only in our case that objection has been raised. I think this is a silly objection which can be raised. Sir, it has also been said by the minorities that as 85 per cent. of the population of Pakistan is Muslim, there is no chance of any non-Muslim becoming the Head of the State. This being the case,

no non-Muslim, strictly speaking, should have raised any objection to this provision. This is a fundamental principle of Islamic Constitution. We have already accepted the Objectives Resolution, wherein we have stated the belief that we are administering the country on the delegated authority of Allah through the people. Now a man who does not possess any belief in Allah, how can he be expected to rule over Pakistan? Therefore no Hindu or a non-Muslim should be the Head of the State, because he has no such belief in Allah....

**Mr. President:** Mr. Abul Quasem! Before you proceed further with your speech, I would like to adjourn the House. You will resume your speech when we meet next.

The House stands adjourned till 4.30 p.m. to-day.

The Assembly then adjourned till Half Past Four of the Clock in the Afternoon.

The Constituent Assembly of Pakistan re-assembled at Half Past Four of the Clock in the Afternoon, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

#### REPORT OF THE BASIC PRINCIPLES COMMITTEE—Contd.

**Mr. Mohammad Abul Quasem** (East Bengal: Muslim): \*Sir, my friend Prof. Chakraverty the other day mentioned that the Head of the State ought to have been elected directly by the people or through an electoral college. His condition would have been all right if we would have given sufficient powers to the Head of the State but in the report of the Basic Principles Committee it has been definitely provided that the real power will be in the hands of the Prime Minister and not in the hands of the Head of the State. The Head of the State will have only two powers: power of clemency and power to appoint election commission and election tribunal. Hence there was no need for having direct election for the Head of the State, because he shall be merely a constitutional head.

Now I would deal with the formula solving the constitutional deadlock. Objection has been raised on various grounds and I think, at any rate it appears to me that it is a heavenly solution of the constitutional deadlock. Hundreds of thousands of Muslims were praying day and night for removal of this deadlock and Allah has favourably responded to their sincere prayers. This is a formula which has been hailed all over the country. It is a clear proof of the strength of Islamic brotherhood and the Muslims of different territories transcended all territorial and local differences and have arrived at a solution for the solidarity and security of Pakistan. The criticism regarding the safety clause of having 30 per cent. of the total vote of each zone is based on the ignorance of the strength of Islamic brotherhood and unity. This safety clause has removed the misgivings from the mind of the people of the smaller units. This safety clause will be real strength for safety of Pakistan as it has done away with the chances of any difference between the two wings of Pakistan. It is the strong ties of Islamic brotherhood that bound together the two wings of Pakistan.

Now, Sir, I would say a few words with regard to the question of joint electorates. Sir, the responsibility of safeguarding the interests of all the sections of the minorities rests on the party in power. The party

\*Speech not corrected by the Honourable Member.—Ed. of Deb.

[Mr. Mohammad Abul Quasem]

in power has done the best possible justice to the backward as well as the scheduled castes people inhabiting this vast country. The representatives of the depressed classes who are here represent only the enlightened section of the population. The scheduled castes federation's viewpoint has not been taken into consideration and as such these misgivings might have been created even in the mind of my friend Sardar Shaukat Hyat Khan. While he supported the cause for joint electorate he was particularly labouring under a wrong conception that joint electorates are actually wanted by the minority community. Unfortunately in the Punjab wherefrom my friend hails, there is no minority community and he has no direct touch with members of the minority community. So he actually does not know their mind. Most of the minority community members are from East Pakistan where we have opportunity of coming into contact with them. Their feeling is that there should not be any joint electorates because thereby they will lose their entity. Now, Sir, what happened in India. There joint electorates was forced upon the Muslims and in this way the Muslims have been practically made a non-entity. They cannot have their views felt now in the Government because at the time of the general elections the votes of the Muslims were practically taken in favour of the Congress at the point of bayonet. We do not like to repeat the same though India did it. We want to do justice to the people here—people who depend entirely on us. This is the thing why separate electorate has been retained particularly in the case of Scheduled Castes and Tribal Area people. It is to raise their standard so that they will come up equal to the standard of the other people in the country. Then the question of giving joint electorate to them will arise. The time has not been ripe enough to give them joint electorate and it would be making them a non-entity.

**Prof. Raj Kumar Chakraverty** (East Bengal : General) : On a point of order, Sir. There is no quorum.

(The bell rang and there was quorum again.)

**Mr. President** : Yes, Mr. Abul Quasem.

**Mr. Muhammad Abul Quasem** : \*Sir, as has already been observed by my friend Mr. Gazder I would simply say that the powers of the Head of the State should be curtailed and also the provision that the present-pay scale of the Head of the State should be continued till it is decided by the Assembly. In this case I want to say that as the Head of the State shall be mainly a constitutional head, the pay scale should be decided by the Assembly but it should not exceed Rs. 5,000 in case of the Head of the State and Rs. 3,000 in case of the Head of Units. This provision should be made so that Government money may not be spent merely to retain the heads. With these words, Sir, I support the Basic Principle Committee's Report.

**Syed Shamsur Rahman** (East Bengal : Muslim) : Sir, I rise to support the motion of the Honourable Prime Minister regarding the consideration of the Basic Principles Committee's Report, after having arrived at a unique compromise in respect of the constitution of the Federal Legislature, which has been well-received by all sections of the country. Sir, it is in the fitness of things that the Members of this House should consider the report and also the compromise formula in all its aspects before this House decides the matter. Now, Sir, the

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\*Speech not corrected by the Honourable Member.—*Ed. of Deb.*

learned Members of this House, both of the Opposition Benches and those who are supporters of the Government, they have all expressed their sentiments and their opinions with regard to the formula.....

**Mr. Bhabesh Chandra Nandy** (East Bengal : General) : Mr. President ! Sir, in this House is there any Opposition on Government side ?

**Syed Shamsur Rahman** : I am sorry but there are two parties in the House.

**Prof. Raj Kumar Chakraverty** : No, no, there is no party in this House.

**Syed Shamsur Rahman** : Even if there are no parties at least there are Members sitting opposite to each other and expressing views opposed to each other, in that sense I may say. So I can say Members who have supported the motion and those who have opposed it or given opposed views.

**Mr. Ghyasuddin Pathan** (East Bengal : Muslim) : Members sitting opposite.

**Syed Shamsur Rahman** : Now, Sir, of course I was meaning my honourable friends opposite to me. They have brought to bear a considerable amount of unmerited criticism against the report that has been placed before this House. It is wellknown, Sir, that if one wanted to criticise the observations of Socrates a whole round of books might be written thereon and from Socrates down to our age there is not a single political formula which has not been debated from age to age and in volumes which have baffled the intellect of the learned of the East and the West. Therefore to say that there are some criticisms of this report is saying nothing. As a matter of fact, Sir, I have been struck by the mild nature of the criticism that has been levelled against the Basic Principles Committee Report and when one considers the great amount of controversy that raged in Pakistan during the last few years over this report it is surprising how loyally the whole people of Pakistan have supported this report. Therefore, Sir, it goes to the credit of this report that it has won affection in the hearts of the people of Pakistan irrespective of religion, caste or creed. I, therefore, Sir, take this opportunity once again to congratulate the Prime Minister for bringing about a compromise formula and setting at rest all controversies which were then embittering the feelings of the people. As a matter of fact no nation can hope to live for ever or even live for some time unless it knows how to arrive at compromises. As pointed out by one of the most well-known Parliamentarians of India, Mr. Naziruddin Ahmad, when he said, that this formula was a move in the right direction because, better than wrangling over the niceties of constitutional law, better than wrangling over political theories, it is better that we arrive at a formula which will satisfy at least the saner sections of the people of the country and which will have a reception of warmth in all sections in the country. Therefore, Sir, I say that with this formula the country would have a start to begin its life to begin its progress and to begin its life of democratic upbuilding of the nation which requires speeding up at the moment. Now, Sir, the nature of the State that has been envisaged in this report is well-known because Pakistan was founded on the indomitable will of a number of people who wanted an ideological state for themselves and that was Islam. And in that State they wanted to order their lives in the individual and collective sphere in such a way that the Mussalmans would live an untrammelled life according to their spiritual belief and wherein the other races, the other cultures and other religions will have an equal scope of living and letting live.



[Syed Shamsur Rahman]

Now, Sir, it has been argued by some of my honourable friends that it has been a retrograde step in this time of our national history to say that there shall be a head of the state who will be a Muslim. I am very sorry, Sir, that the criticism has come from a quarter which had not looked into the constitutional history of the world. I am referring, Sir, to the speech of my honourable friend Prof. Raj Kumar Chakraverty in which he posed a question, which requires a reply. Prof. Raj Kumar Chakraverty, Sir, has said :

"Let us consider his election from another point of view. He must be a Muslim under the proposed constitution."

And then, he said—

"Have the American stultified their constitution by saying that the office of the President is not open to a Negro or a Roman Catholic. I wish that he members of the Committee followed the American precedent in this respect. They should not hereafter swear by democracy."

Sir, if really the Honourable Member is so much enamoured of democracy, he would not have been so much enamoured of American constitution especially if he really knew the American Constitution. Then, he would surely not have said so, if only he were in the knowledge of facts. In the American Constitution, not only the Heads of the States, but no office under the States is open to anybody except to Christians under the law of the different States composing the Federation. Not only so, if my honourable and learned friend had the time to look into the decisions of courts of Law, he will find that, not to speak of opening up of the highest office and posts of the States, even nobody else except a Christian is believed in a court of Law even on their sworn testimonies.

**Prof. Raj Kumar Chakraverty :** It is a news.

**Syed Shamsur Rahman :** It is a news to you, but I shall cite an authority which will surely satisfy you and you will not hereafter debate on this point, and which will put you to silence here and hereafter.

As I was saying, Sir, that really all that glitters is not gold. Here it is admitted that the headship of the State in England is not open to anybody except a Protestant but Mr. Chakraverty argued that there were historical reasons behind it. I say with all humility that there must be some historical background here also so that the principles of the Basic Principles Committee were formulated in the same manner, but, one thing I can assure you, Sir, that here the framers of the Basic Principles Committee did not want that their recommendations should say one thing and do a different thing or that it should say that ours is a secular State and on the other hand go on practising things which are not the purposes of a secular State, e.g., Sir, our neighbouring State, India, is said to be a secular State, but the other day, we found that the President performed religious ceremony by washing his feet of the learned Pundits of Benares which is not an act to be performed by a President of a country which is said to be secular State. Here, Sir, we do not want that the Head of the State should do certain things which will only injure the written constitution and show to the world that our people do not mean business.

As I was saying, Sir, in America and England, it is recognised that Christianity and Christianity alone is the law of the land. Sir, I can quote only one passage from the speech of Mr. Dulles delivered only on the 12th of this month in which he clearly said that America is a land of Christians where the Constitution and all other laws are based on Christianity. Sir, it has been reported in today's *Dawn* which, I am

sure, my honourable friends might have read. Sir, I only want to quote from the speech as reported in today's *Dawn*, though the speech was delivered in New York on October 12. Mr. Dulles said:—

“In America, the Secretary of State declared, life was based on Christian values. The Americans had spread across the world their gospel of liberty. There is no despotism in America, he said. That needs to be remembered today. Our best reliance is not more and bigger bombs but a way of life which reflects religious faith, he concluded.”

Sir, Mr. Dulles was not ashamed to say that the Constitution of America was based on Christian values, but my honourable friend will not like if we say that our whole life will be based on Islamic values. I say, Sir, with all humility. I command, that here you have been living with Muslims for over a thousand years and if really an Islamic State was established in Pakistan, I think that every sect and every community and all religious sections would be happy, happier here than anywhere else in the world.

I said, Sir, that I would quote from certain authority to show what is the actual constitutional system prevailing in America. Sir, I am quoting from a book which was not written for my purpose but which was a compilation of the selected essays of constitutional laws and which was compiled and edited by the Committee of the Association of American Law Schools, practically all the intelligensia of America and they gave their views—American view of constitutional law there. If I may just read a few lines here and there, I would satisfy my honourable friend Mr. Chakraverty if he knew them that he would be far from advocating those things which he has asked us to emulate. Sir, at page 1108 in Book 2, it has been stated:—

“When the Convention which framed the federal constitution assembled in Philadelphia in 1787 religious tests as a qualification for office were actually a part of the constitutions of most of the thirteen original states. While Massachusetts and Maryland required from certain state officers only a declaration of a belief in the Christian religion, the fundamental law of Georgia; New Hampshire, New Jersey and North Carolina limited such belief to the Protestant religion and was designed to require a positive and affirmative test and not merely the negative qualification of not being a Roman Catholic. The Delaware, North Carolina and Pennsylvania constitutions further required an acknowledgment that both the old and new testaments are given by Divine inspiration. The constitution of Pennsylvania in addition exacted a confession of a belief ‘in one God, the Creator and Governor of the Universe the rewarder of the good and the punisher of the wicked’, while the Delaware fundamental law imposed a veritable confession of faith professing ‘faith in God, the Father, and in Jesus Christ his only son, and in the Holy Ghost,’ one God blessed for ever more.”

This is very important for which I say why the American Constitution omitted a reference to this aspect of the thing:

“The practical difficulties in the way of formulating a federal religious test satisfactory to the various states under these circumstances were overwhelming. The diversity in the religious faiths then still established in many of the states precluded any harmonious action looking to such a test.”

The result was that it was not merely indicative but distinctively positive that not only no federal religious test was adopted, but a provision was incorporated in the Federal Constitution to the effect that no religious test shall ever be required as qualification to hold any office or public trust in the United States. Sir, this is a declared misnomer because in all the States, religious qualification was one of the essential tests that was required for an office under the State and therefore, Sir, this declaration by the Federal Legislature was in actual fact a misnomer.

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Secondly, Sir, what was done by the Federal Legislature and what was done under the Constitution was further supplemented by the courts of law and there were the interpretations that the courts of law gave upon the question whether a non-Christian had any right in the State. This is what Lord Coke says in his historic judgment which I will quote. He said :

"Chancellor Kent of New York said, 'The people of the State in common with the people of this country, profess the general doctrine of Christianity as a rule of their faith and practice,' he meant 'in due form of law,' as it had been generally understood under Lord Coke's dictum that 'Christianity is part and parcel of the Common Law,' and not merely in recognition of the palpable fact that the majority were Christians whose practices must be respected. For in this decision the learned judge set down his dictum that those of exotic beliefs were 'impostors' (mentioning the Moslems, then having more votaries in the world than Christianity), and that such infidels had no rights before a court in a Christian land which Americans were bound to respect."

Again following a unanimous opinion of the Supreme Court in *Church of Holy Trinity v. United States* in 1892, Mr. Justice Brewer, in the Haverford Lectures in 1904, showed with ample citations and authorities that this is in fact a "Christian nation". He approved the opinion of Mr. Justice Story in the Girard College case as to Christianity: "Its Divine origin and truth are admitted," and for that reason, "Christianity must be neither impunged nor repudiated."

Sir, I would now refer to the passage of equality of all men before the law from a portion of "Denial of equal rights to religious minorities and non-believers in the United States". It reads thus "Equality of all men before the law, the ideal to which seers and philosophers have looked forward for ages, is far from being attained in the United States, despite such slogans as the "Rights of Man," "Freedom of Religion and of Conscience," "A Free State," "All Men Are Created Equal," the First and Fourteenth Amendments to the Constitution, and the like. The Revolutionary War, so we are taught at school, separated Church and State, but that meant merely that the colonists were no longer subservient to the Church of England. For the purpose of putting an end to the arrogant, "toleration" of religious minorities, by providing equal rights and religious freedom for all, it succeeded merely in giving all Christian sects equal rights before the law. Rights have consistently been denied other religious minorities. This is not merely a legal proposition; for in fact an invidious deference is being paid by the state to the mis-called "national religion" of the majority, beyond a mere recognition thereof, a deference that entails, every day, actual proscriptions and hardships in certain states to non-conformists and unbelievers alike, all under colour of law. Typical of this inequity was the disallowing and discrediting of testimony of unbelievers in the recent Gastonia trials in North Carolina.

These took place at Gastonia and Charlotte, N. C., in September, 1929, in connection with the riots of textile workers at local mills.

Sir, the Christian world proclaim liberty, equality and freedom not for all humanity for all times to come but for Christians and Christians alone in Christian lands. Let it be clear to our Honourable Members who are sitting opposite that Islam preaches the doctrine of equality and fraternity and liberty for all sects and clans, races and climates for all times to come. I was, Sir, the happiest man in the House the other day when my honourable friend Mr. D. N. Dutta said that he was living in Pakistan in his own right. I agree with him that he is in Pakistan by reason of his own right. I wish that a Negro in America

should have said that; I wish that the so-called black race in South Africa could have said that and I wish that Helots of Greece and Rome could have said that. But I am glad that under the Islamic dispensation, under the rule of the Muslim League, my honourable friend Mr. Dutta had courage to say that. I hope that future generations will take lesson from Mr. Dutta and they will say that they are free in an Islamic way of life and in an Islamic State. Sir, we are looking forward to a State which really will be Islamic and the type of Islam that has been expounded not by German or British scholars or scholars of other countries with a prejudiced mind and a jaundiced eye but the type of Islam which was preached and practised by the Prophet and his disciples.

Sir, here I may quote Daniel Webster's famous argument in which he defined Christianity. Daniel Webster in his memorable argument in the Girard Will case said: "The massive cathedral of the Catholic; the Episocopalian Church with its lofty peak pointing heavenward; the plain temple of the Quaker; the log church of the hardy pioneer of the wilderness; the mementos and memorials around and about us; the consecrated graveyard; their tombstones and epitaphs; their silent vaults, their mouldering contents, all attest it. The dead prove it as well as the living. The generations that are gone before speak it and pronounce it from the tomb. We feel it. All proclaim that Christianity, general tolerant Christianinity, Christianity independent of sects and parties, that Christianity to which the sword and fagot are unknown, general tolerant Christianity, is the law of the land".

Sir, I would say in the words of Daniel Webster that Islam is for all the lands; not the Islam that is known to the West through their eyes of hatred for thousand of years. But Islam that was preached and practised here in the Indo-Pakistan Sub-continent for a thousand years under which Hindus, Budhists and other minorities flourished for a thousand years and Islam that was preached and practised in the far-off nook and corner of the World; Islam that gave birth to rennaissance and the Reformations in Europe and America, that has taught the lessons of equality, justice, liberty and fraternity to all the people of the World for all times to come. I do not think any section of this House or people outside have any reason to grumble against that Islam. Therefore while I was saying and supporting that the Head of the State should be a Muslim, I was meaning that he should be a Muslim as defined in the Holy Quran. He will be a man who will be respected not by Muslims alone but by Christians, by Jews, Hindus and Buddhists. He will be a man who will adhere to the tenets of religion as practised and preached by Prophet and he will be a man who will stand for justice, equality and liberty with the conscience that he is a servant of God. In that view of things, I sincerely and honestly believe, Sir, that if it is laid down that the Head of the State shall be a Muslim, then nobody except the people with a jaundiced eye will take any exception. Sir, the word "Muslim" has been defined in the Quran and anybody who calls himself Muslim simply by accident of his birth does not make himself a true Muslim.

Sir, with regard to the criticisms made on the other aspects of the Basic Principles Committee Report, on the floor of this House, I would only say that they make criticisms without understanding the genesis of things. They go on criticising for the mere delight of criticism. But, Sir, in this House we are engaged not for making criticisms for the sake of the mere delight of it, or throwing arguments at each other but for finding an agreed constitution and the minimum quantum of agreement upon which these things can proceed. It is a fact that Pakistan was



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carved out by the indomitable will of the Muslims to live their own lives and that the minorities living in it should also have the similar rights and privileges. That assurance, I am very happy to say, this report of the Basic Principles Committee has fully justified and I hope that, when the final Constitution is drafted, the rights of all the minorities and of all the sects and of all the classes will be protected. As a matter of fact, Sir, it was argued by my honourable friends from the other side as to why should separate electorates be forced upon them? They said that they did not want them. They said that as a matter of fact if we are not given any special seats for ourselves we shall be satisfied to have you as our representatives. Actually, Sir, if one considers the history of separate electorates in this land, one would be convinced that that argument is a mere argument without any substance in it. This question of separate electorates for Muslims and Hindus was fought out between the Congress and the Muslim League for a long time past. The Congress rejected the demand of the Muslims that they should have separate electorates. My honourable friends, some of whom were in the Congress—they are still there, although so much water has flown through the river Sind—are still there on the same platform, saying the same thing, urging the same arguments and delivering the same goods year in and year out. Sir, if Pakistan is to be built on the ideology of Islam and if you cannot understand even the implications of that ideology, how can you hope to represent the Muslims and how can the Muslims represent you? On the other hand, there is a good deal of chance that if there are only joint electorates in the country your position would be reduced to that of Shudras of India and of Negroes of Africa or America and if you want that we cannot give you that, because, after all, you must remember that we are discharging our duties with our eyes to God and we are going to do our duties without any qualm of conscience, without surrendering to the aspersions that may be cast on us.

Sir, it has been said why did the Honourable the Prime Minister refer to certain safeguards? I say, Sir, those safeguards are merely medicines—they are medicines of the Constitution, not daily food—and all constitutional experts have always thought that in every Constitution there must be some medicines, some safeguards, prescribed when the body-politic has got some malady, but nobody expects that the medicines will be made the daily food of the nation and will be administered by the Government so that the whole nation may become paralysed. Therefore, Sir, I say that the normal functioning of the Government—the normal functioning of the State—will be supposed to be on a healthy basis on healthy compromise in their everyday affairs—in compromise between different religions, in compromise between different sects, in compromise between different sections of the House—so as to achieve the golden mean by which all progressive nations follow. If one goes to extremes there may be bad blood, resulting in bloodshed. Therefore, the statesmen who have got the future generations to look after and not merely to the next general election, follow the golden mean of compromise and they have got to prescribe medicines of the Constitution only in cases of extreme maladies.

Sir, with these few remarks I think that I can safely say that the criticism that have been levelled against the report presented before this House are hardly worth the salt. In order to understand the Constitution, the whole history of nation, the whole political outlook of a nation, the whole past, the whole present, the whole future, has to be envisaged and criticism—a mere arithmetical criticism—will not help us in any way. Therefore, Sir, I hope and

pray to the Almighty that He will give us wisdom enough to proceed most dispassionately to consider the material aspects of the Constitution and to suggest good alternatives which, I hope, this House, this Assembly, will accept with good grace if made from any quarters and will make the Constitution a thing to rejoice over for the whole of the nation.

With these few words I resume my seat.

**Syed Khalil-ur-Rehman** (Punjab : Muslim) : \*Mr. President! Sir, it is gratifying to see that after a lapse of six years this House is now considering the Report of the Basic Principles Committee with a view to framing the Constitution. I admit that a period of six years was no doubt long for producing a Constitution but we must not forget that in evolving a Constitution political antecedents, background of the people and their views had to be taken into consideration. It was also necessary that all sections of the people had to be satisfied with the Constitution that was to be framed.

Sir, this Report was presented before the people twice but was not approved. Thank God that the differences arising on important constitutional issues have been happily resolved in the present form of the Report. On this occasion I offer my heartiest congratulations to the Leader of the Party and my esteemed friend, Mr. Nurul Amin, who displayed magnanimity of heart in proportion to the largeness of the population of East Bengal as compared with that of West Pakistan. Thus he has won the esteem and affection of the various Units of West Pakistan.

Sir, I have very carefully listened to the speeches made by my friends and have a great regard for their feelings. I assure them that I appreciate their points of view. If I were in their place, I too would have had the same feelings and uttered the same words. As far as their sincerity and loyalty to the State is concerned, I can assure them that we have no doubt in our mind about that. I am sure that they would be the first to rush forward and make every sacrifice for Pakistan, whenever it is faced with a crisis. I therefore hope that they too would endeavour to appreciate our feelings in the same manner as we do.

Sir, I know how the world faced destruction during the last three or four decades. During this period two most horrible world wars were fought while another (may God believe my words) threatens to break out any moment. Who can say what would happen. Even a small event may set the whole situation ablaze and destroy the peace of the whole world. Why are these wars being fought? Well, the answer, as I and others who believe in the ideal of Pakistan, think, is that capitalism, racial discrimination and communism in the present world are the factors largely responsible for these wars. As a Muslim I believe that Islam has a panacea for all our ills and can be an answer to all "isms". Islam recognises no racial discrimination, no economic disparity. Perfect brotherhood and equality are the fundamentals of Islam. Just before the partition, we were in the position of a physician who knows the cure of an infectious disease but is unable to apply it because he is not a registered physician. We knew the fundamentals of Islam but were unable to practise them. Then began the struggle for freedom in India. With all responsibility I can say that when the struggle for freedom in India began, we realised all this as any sensible man did. We knew full well that a united free India with a population of forty crores and its vast natural resources could become a great power in the world. We cannot deny this fact. But we joined the struggle for freedom in India with a different ideal before us and demanded that India should

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\*English translation of the uncorrected Urdu speech.—Ed. of Deb.

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be freed on condition that a separate homeland for Muslims was carved out so that they could live according to their own concept of life. For the achievement of this ideal we made sacrifices the like of which the world has never known. Over a million Mussalmans lost their lives, property worth millions of rupees was abandoned, and about sixty to seventy thousand Muslim women were dishonoured so that we could give a concrete shape to our dream of Pakistan. It was with this ideal before us that we made all these sacrifices and established Pakistan. How is it possible for us now to give to this new born State a shape which is not in accordance with the wishes of the people who made these sacrifices and their leaders who presented before them the concept of Pakistan and exhorted them to make every sacrifice to give a concrete shape to this concept. Sir, if my honourable friends just consider the awkward situation we are placed in, I am sure they would voice no such protest. In the matter of constitution-making, I am sorry to say, there has been a lot of confused thinking on the part of my honourable friends opposite. Constitution and law are two different things. While considering the constitutional issues we should not confuse them with law. I do not want to go further into the details of the question. I would reply to only one aspect of the criticism made by one of our honourable friends. For instance, one of our friends remarked that if we follow the teachings of Islam while forging our constitution, we shall be taken centuries back. For instance the hand that steals must be cut down.

**Mr. President:** If you want the Members of the Opposition to understand you fully, would it not be better if you speak in English?

**Syed Khalil-ur-Rehman:** I am very sorry, Sir. I want to bring to your notice that some of my friends, very learned friends, made a confusion when they were discussing Constitution with the law of the country. For instance, one of my friends said that if we accept the Islamic Constitution, we will take the country hundreds of years back. There I disagree with him. I do not want to go into all those questions that he discussed on the floor of this House and discuss them here. I take one or two points. For example, if anyone steals his hands are cut off. Well, I admit that.

**Sardar Shaukat Hyat Khan:** Sir, is it permissible to speak in two languages in the same speech?

**Syed Khalil-ur-Rehman:** Sir, it is laid down in the Holy Quran that the hand that steals must be cut down. Side by side it is also said that God is Merciful. That means that the hand is not cut on its very first attempt. It is only the habitual criminal who is meted out this punishment. Then what is wrong in it?

**Prof. Raj Kumar Chakraverty:** Will you change your law accordingly.

**Syed Khalil-ur-Rehman:** No, Sir. I am ashamed when I read in papers that in almost all the big cities of Pakistan there are hundreds of theft cases every day and if I am ashamed, certainly, Sir, I will accept it. I may remind my friends that in order to remove it almost all the progressive countries of the world once have practised such harsh laws. My friends may remember that for forgery in England, the penalty was death. I maintain that in order to purify our society for some time we must bring forward harsh laws. For instance, there is black-marketing, smuggling and hoarding and our laws are just very nice and progressive for these offences, but when we read in papers that so and so was shot dead in such and such country for an offence of this type, we praise the

action taken and we say that similar action should be taken in this country of ours, but we only talk of it and when the time of action comes we fall back on it, and it is surprising when we start thinking of such stern punishment, we are told that we are taking our country centuries back. I request the Honourable Members to be lenient in regard to their criticism of the Government.

Sir, some of my friends were very harsh on the so-called Mullah Board. I have read the Basic Principles Committee Report and I do not find any mention of any Mullah Board. I think by Mullah Board they mean Chapter 3, clauses 5 and 6. In Clause 6 it is written that the Head of the Unit should constitute for a period of five years a Board consisting of not more than five persons well versed in Islamic laws. So, Sir, there is no mention of Mullah or even a Mussalman. Two of my friends very zealously quoted phrases from the Holy Quran. If they had paid a little more attention and if they were a little less biased, I am sure they would have qualified themselves to be included in that Board and, Sir, I would be the first person to propose the name of at least one of them, but, Sir, unfortunately this class is not owned by anyone—if you will allow me to use the phrase—it is nobody's baby. So we should not waste any more words on it, but this shows which way the wind blows. I would expect my friends to consider this Report in a more broad-minded and just manner.

Sir, I admit that this report is not perfect. There are certain weak points in it also. But my faith is that there is no perfect law in the world except the one given to the Holy Prophet (may peace be on him by God.) But we have to take into consideration various points of view of various units. So, we have to take that formula as the best solution of the problem. Personally I think that it might delay legislation; personally I think that in time to come we may be faced with more critical positions, but, Sir, as a Mussalman and as a member of this nation I have full faith that whenever any crisis arises, this nation will rise equal to it as they have done in solving this tangle of constitution as late as last week.

Then, Sir, my friend Sardar Shaukat Hyat Khan discussed separate electorates on which some of my friends have delivered very detailed speeches. One thing which he did not, and perhaps he did not want to understand, was that when we were in a minority, we wanted separate electorates and now when we are in a majority we still want separate electorate. I think this is very easy to understand.

**Shri Sris Chandra Chattopadhyaya** (East Bengal : General) : Save me from my friends !

**Syed Khalil-ur-Rehman** : We were of the opinion as minority that the rights and privileges of the minority could only be safeguarded by separate electorates and, Sir, when we are in a majority we are consistent in our view and we still hold that the rights and privileges of the minority can only be safeguarded in separate electorates. This is very simple. We are consistent throughout. As far as the claim that all the Hindus in East Bengal want joint electorates, my honourable friend Mr. Nurul Amin knows better and when he is called upon to speak, he will explain.

There are two things in this report which I want to bring to the notice of this House : One is Baluchistan. Sir, as you know we have been promising reforms to that province and those promises have been very long overdue. I submit that we fulfil our promises in this new constitution. The other thing is about Karachi. My friends of Karachi have very ably put the case of Karachi before this House. There is one



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thing that I want to add and that is if we do not give any weightage to the Federal Capital, at least we should give them their right. Karachi is the one city in this sub-continent where you will find most of the public workers and leaders of thought living, and I think it will be in the fitness of things that we acknowledge this fact and give them their due. Sir, with these few words I support the motion.

**Mr. Nur Ahmed** (East Bengal : Muslim) : Sir, I remember your advice and as such I will confine my observations to the provisions of this report.

Sir, I will consider the structure of the future constitution as embodied in this report and as modified by the agreed formula. Sir, I will judge this report from the point of the Lahore Resolution. Sir, I will consider the report from the special geographical features of the Federation of Pakistan.

**An Honourable Member** : There is no quorum in the House, Sir.

**Mr. President** : Mr. Nur Ahmed ! You may please sit down. An objection has been raised that there is no quorum in the House. Let me see.

(The bell rang until there was quorum in the House.)

**Mr. President** : Yes, Mr. Nur Ahmed. Please continue.

**Mr. Nur Ahmed** : Sir, I will judge this report in the light of the opinion expressed by Quaid-i-Azam in his various writings and speeches. He was the founder-architect of Pakistan. I will judge the report from the fundamental principles of Islam. I will consider it from the principles laid down in the Objectives Resolution.

Sir, Pakistan is a wonderful and unique federation. In our boyhood we used to read about the Seven Wonders of the World. Pakistan can be aptly claimed to be the eighth wonder of the world. Nowhere in the world is a federation consisting of two far-flung wings, separated from each other by a distance of 1,400 miles of foreign territory and without any through means of land communications between the two wings. The only means of communication is by air and sea. These two wings are populated by people with different outlook on life ; different culture ; speaking different language. Only the overwhelming population of these two wings are bound together by the bond of a common religion. Except religion there is nothing common between the two wings of Pakistan. Any constitution which will be framed for Pakistan must pay special attention to these features. Sir, the Lahore Resolution gave full consideration to these features. It was laid down that the two units would be autonomous. I find that in the Objectives Resolution this was kept in view. I find from the speeches of Quaid-i-Azam that the constitution of Pakistan would be shaped according to the wishes of the people. Sir, in another speech he said that the constitution will be based on Islamic socialism and fundamental principles of Islam. Sir, in Chittagong in his speech he laid great stress on the Islamic socialism and fundamental principles of Islam. Sir, I say with all respect and admiration to the authors of the report that they have provided in their report which has been presented in this House that in Pakistan there will be a glorified Persian Satrap sitting too powerfully like the Roman Emperor as Head of the State. He will guide the destiny of Pakistan and all the powers will be concentrated in the Head of the State. Even the Ministers will hold their office during their pleasure. The Governors shall be appointed and hold office during their pleasure and no term has been

fixed for these offices and everything has been left to the sweet will of the Head of the State, and the Ministers in the Provinces would be holding office during the pleasure of heads of units and so on. The executive power of the State and Government will be vested in him. Even there is no such proviso that these powers will be exercised by him according to law and constitution. He will be the Commander-in-Chief of the Army and there is nothing in the report to control or regulate his power.

**Sardar Shaukat Hyat Khan** (Punjab : Muslim) : There is no quorum.

**Mr. President** : The House stands adjourned till Five Minutes Past Six.

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The Assembly then adjourned till Five Minutes Past Six of the Clock in the Evening for *Maghrib* Prayers.

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The House re-assembled after *Maghrib* Prayers at Five Minutes Past Six of the Clock in the Evening, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

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#### REPORT OF THE BASIC PRINCIPLES COMMITTEE—Contd.

**Mr. Nur Ahmed** (East Bengal : Muslim) : Mr. President ! Sir, before we adjourned, I was considering the Report in the light of the famous Lahore Resolution of Pakistan and also in the light of the Objectives Resolution wherein it is stated that the Federation of Pakistan will consist of autonomous units. I was trying to show from the Report that the whole idea which runs through the whole gamut of this Report, is to make a strong Central head, a strong Centre, tantamounts to a monarchical form of Government, even all the clauses envisaged in the Report are to be found in monarchical form of Constitution. Sir, I was stating that all power vests and is centred in the Head of the State. The Head of the State will appoint Ministers who will hold office during his pleasure. There is no fixed period mentioned for the terms of the Ministers. They will hold office during the pleasure of the Head of the State. Governors will be appointed by the Head of the State and they will also hold office during his pleasure and no terms of their office is given in the Report. All power vests—all executive powers will vest in the Head of the State. The chief command of the army will vest in him and there is nothing to show how these powers will be exercised by him. He will appoint commanders of land forces, air forces and navy, who will hold office during his pleasure. Sir, he will appoint the Auditor General who will also hold office during his pleasure. He will declare a war and even make peace, he will make treaty without any reference to the legislature. The only safeguard is that he will have to act on the advice of the Ministers. Now, I will consider this power in the light of the agreed formula. Now, in the main Report, power is given to the Head of the State to dissolve the legislature or the House of the People. Now, according to the agreed formula these powers of the Head of the State will be exercised by him on the advice of his Ministers and the advice given by the Ministry will be binding. This important change has been made that this agreed formula lays down that if the Head of the State is from one region of Pakistan, the Prime Minister will be appointed from the other region. Now, what will happen ? If there is a disagreement between the Head of the State and the Ministry, if the Head of the State likes to be a dictator and wants to act like monarch, the Head of the State will dismiss his Ministers because they will hold office during his pleasure. And then he will exercise all other powers ; there will be

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no check, no restriction after he has dissolved the Ministry because the only check provided is the advice of the Ministry which otherwise will not be available and he will become a glorified monarch, even he has been given power to enact ordinance and to suspend Constitution and to declare emergency and there is no proposed regulation or law by which he would be guided in the exercise of these most vital powers. So in my opinion the provisions of this Report are contrary to the Lahore Resolution of Pakistan and also to the spirit and letter of the Objectives Resolution adopted in this House. Sir, Islam does not contemplate that a Head of the State should exercise his powers in an unrestricted manner, if he so desires. So I appeal to the Honourable the Prime Minister to consider this aspect of the report even if we have to change the whole composition of the report so that there may not be any occasion for dispute between the Head of the State and the Ministry and then in that case Centre's duty would be to keep as less power as possible. I know the authors of this report were guided by a supreme necessity of Pakistan's unity. There is disruption, there is fissiporous tendency. The authors of this report wanted by this centralisation to provide for the unity, solidarity and integrity of Pakistan. That was the noble object. But after this formula, I think we have to modify this idea. We have to change this report in the light of the agreed formula. There is suspicion between the two far-flung parts of Pakistan and this compromise formulae have made them inter-dependent so that Pakistan may be consolidated and its unity may be cemented. I think the authors of this formula should be heartily congratulated. The Prime Minister and the Chief Minister of East Bengal, Mr. Nurul Amin deserve our thanks. But for him the members of Muslim League Council of East Bengal who gave ultimatum to complete the Constitution by June, 1954, these supreme efforts to evolve a common formula would not have been made. This alternative formula is more suitable and convenient for the smooth working of Pakistan and for the solidarity and unity of Pakistan. But for the proper working and for the smooth working of the formula, one thing will be essential and that is the spirit of compromise. In a democracy, spirit of compromise is an all important essential thing. If we can keep up the spirit of compromise and if this report is modified in the light of the formula, Pakistan will grow from strength to strength and Pakistan's solidarity and unity would grow day to day and the purpose for which Pakistan was carved would be served.

Now I will go to another aspect of the Report in the Objectives Resolution and according to the fundamental principles of Islam, Judiciary must be independent. But what I find is that the Judges of the Supreme Court will be appointed by the Head of the State and only salary and allowances and pensions will be charged on the revenue of Pakistan and also the pension of the High Court Judges and not their salary and allowances. The Head of the State will make rules as to the appointment of High Court Judges and Supreme Court Judges. I think Islam is very stringent on this point. Islam declares that Judiciary should be independent wholly. My suggestion is that in that respect this report should be modified drastically. Only Chief Justice of the High Court should be appointed by the Head of the State and that too on the recommendation of the Public Service Commission and all other Judges such as Puisne Judges and other Judges of the High Court should be appointed by the Chief Justice of Supreme Court on the recommendation of the Public Service Commission of Pakistan and their salary and allowances should be charged on the revenue. The Chief Justice of High Court should be appointed by the Chief Justice of the Supreme Court.

Other subordinate judges should be appointed by the Chief Justice of the High Court. If this modification is accepted, there will be very independent Judiciary in Pakistan according to the fundamental principles of Islam. If Pakistan has to be an Islamic State, it must have an independent Judiciary. Some of my learned friends on the opposite have tried to interpret some of the principles of Islam by quotation from some books. But I ask them to remember that if we want to make any comment on Islam we should first go through the Quran. We should study the History of Islam. In this connection I will only read a portion of the book written by K. L. Gauba "The Prophet of the Desert" where he says "Islam and Muhammad its Prophet have suffered much by calumny and misrepresentation, which continue up to the present day, inspired largely by a historical background, such as the exploits of the Saladin, the fiasco of the Crusades, the death of General Gordon, the Moghul Empire, and Mustafa Kamal Pasha's smoking reply to the Treaty of Sevres. So long as Islam is a living force in the material world, it seems hopeless to expect non-Muslim opinion in general to take a dispassionate view of the contribution of Islam and political problems. The difference, however, seems to lie in this, that whereas Christianity, Judaism and Buddhism have ceased to reckon in the material world, Islam is still a tremendous force and, accordingly, inspires the perfidy of the Balkans, the hate of the Jews, the apprehensions of the Hindus and the animosity of Russia.

Among the major problems, which confront the world today, the most important are those relating to nationalism and inter-nationalism, the mingling of the sexes and the breakdown of the marriage relationship, the conflict of autocracy and democracy, capital and labour, the rejection of God by great multitudes of people, empty churches and starving missions. This is not the first time in history that man has been tired of God or been confronted by major problems in menacing array. It appears more than mere accident that Europe and America should now be eagerly debating the pros and cons of polygamy, easier divorce, distribution of the wealth of great families by more equitable rules of inheritance, brotherhood among different peoples, elimination of prejudices of class and colour, collapse of the economic system as result of the borrowing and lending of money at interest. Almost identical questions were before the world towards the close of the sixth and the beginning of the seventh centuries. A perusal of the pages of the book will show how a simple Camel Driver led his caravan through these difficulties."

This is the opinion of a well known non-Muslim writer. I would ask my friends on the Opposition Benches to read the books, especially those written by non-Muslims, about Islam and try to understand what we mean by Islamic democracy.

I give one instance from the life of Hazrat Umar, the second Khalifa. One day while he was preaching in the Mosque at Medina he said that the dowry on a marriage should be confined to 2½ *dirhams*. An old woman got up and said you are lying! Now is it not true democracy under which the Amirul Momineen, Khalifat-ul-Muslimeen can be confronted by an old rustic woman? Now is it not democracy? Once Hazrat Ali, the fourth Khalifa, who was dressed like an ordinary man, was sued by a Jew in a Kazi's court and he was summoned to give evidence but the Kazi did not believe his statement and passed judgment against him. Have you not read that when Hazrat Umar was going from Medina to take possession of Jerusalem he was accompanied by his servant and as there was only one camel he was riding it alternately with his servant

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and it so happened that when he reached Jerusalem the servant was riding and the Khalifa was holding the rein of the camel. The Patriarch was simply dumbounded at seeing this. Now do you think that this is not democracy? Such incidents you will find in considerable number from the lives of the Holy Prophet and his Khalifas. Do not you remember that Mahatma Gandhi advised the first President of India to follow the examples of Hazrat Abu Bakr and Hazrat Umar? The Quaid-i-Azam when asked about the rights of the minorities said that the same treatment would be accorded to them as had been done by the Holy Prophet and his Khalifas. There is the instance of a Christian deputation which came from Yemen to visit the Holy Prophet. They were asked to stay in the Prophet's Mosque at Medina. It so happened that this Christian deputation wanted to say their prayers—It was the Sabbath day—and they inquired from the Holy Prophet where they should offer their prayers. They were allowed to do so in the Mosque but then they said that they wanted a statue of Mary to be put to be worshipped and the Prophet allowed them to put the statue of Mary in the mosque and to worship it: this is Islamic liberalism; this is Islamic tolerance. Do you want that this should not be done in Pakistan? I can cite many hundreds of instances of Islamic democracy and Islamic tolerance. Then how do you believe that this Islamic Constitution will not give you the right of citizenship? Islam has always treated its minorities in a most generous manner and that is one of the chief reasons for the spread of Islam. I do not want to take up the time of the House in narrating instances where due to the good treatment received by non-Muslim minorities at the hands of Muslims such minorities rose against their own Christian rulers because they found Islam tolerant and just towards them. There is the instance where some miscreant broke the nose of a statue of Mary in Egypt and the Christian Copts complained to the Governor Amer-bin-As. He said, "What do you want from me?" and was told that they wanted a statue of Muhammad to be made and to break its nose. He said "I cannot allow you that but as I am responsible for the protection of the religion of minorities, you can, if you like, cut off my nose! This was the kind of justice which used to be meted out to the minorities.

I have dealt with two aspects of the Report, namely, the Objectives Resolution and the fundamental principles of Islam. I have also discussed the powers contemplated to be given to the Head of the State so that he should be impartial, pious and powerful man; he should be a strong man himself so that he may make the solidarity of Pakistan strong.

As regards the autonomous character of the units, my humble submission is that Centre should keep as less powers as possible and only a few important subjects. It should follow the same system of grant-in-aid as is prevalent in Austria, by which the units would remain contented and they would co-operate more and more with the Centre. Centre should act as a friend, philosopher and guide for all the units, so that all the units should have complete confidence in the Centre. In order to make a success of this formula, it should be worked in the spirit of compromise and I appeal to all that the formula should be worked out in a spirit of friendliness and compromise. This formula has been evolved after protracted discussion and complete unanimity amongst the Honourable Prime Minister, the Chief Ministers of Provinces and the Members of the Muslim League. I am sure if it is further worked out in the same spirit there will be no difficulty in solving our problems and everything will be done satisfactorily under the guidance of the Centre. I wish all success to the deliberations of all concerned in this vital task that lies ahead all of us and to the result of which the people of Pakistan as a



whole are eagerly looking forward. In my opinion, all the units should be fully autonomous, should be allowed ample resource to develop themselves for the best interest of Pakistan and the Centre will only guide them as a friend by help and not by coercion.

**Dr. Mahmud Husain** (East Bengal : Muslim) : Mr. President ! Sir, the debate has already taken several days and every aspect of the Report has been fully discussed. Amongst us there are persons who have opposed the various provisions in the Report and there are those who have supported it. Certain concrete suggestions have also come from those who have given their support to the Basic Principles Committee's Report. I do not think, Sir, it will be advisable to go on in the manner in which we have been doing till now. I think the time has come when we should stop making long speeches and adopt a more businesslike method of dealing with the subject. I shall, therefore, straightaway take some of the things which have been said about the Report and try to explain my views with regard to those matters.

The Report has been assailed on two or three grounds. First of all, its Islamic character has been criticised. A number of speakers from my right have spoken of the various provisions in the Report which aim at making the proposed constitution an Islamic constitution and have expressed adverse views on this aspect of the Report. I would say, Sir, that it is now rather late in the day to suggest that this Report should not have intended to give to the country a constitution which could be truly called an Islamic Constitution. Several provisions of the Report have been criticised by my honourable friends. If that criticism is to be taken into account and these provisions are to be removed, then we will find that there is nothing left in the proposed constitution which would make it in any sense of the term an Islamic Constitution. These objections should have been raised at the time of the passing of the Objectives Resolution. That was the proper occasion. The Objectives Resolution has already laid down as to what kind of a state Pakistan is going to be. I have no doubt in my mind that even if the words "Islamic State" were not used in that Resolution, it was clear that there was no other aim put forward before the constitution-makers by the Objectives Resolution than this that Pakistan should be an Islamic State. If Pakistan is to be an Islamic State, well, then Sir, I think that what has been provided in this Report is the very minimum. Any detraction from it would make it a constitution which would not be Islamic, whatever else it may be.

It has been said, why the Head of the State should be a Muslim. One of my friends, Mr. Dharendra Nath Dutta, pointed out that if the Head of the State is to be a Muslim only, then Hindus would feel that they have no share in the Government of the country. I think, Sir, that is an erroneous view. The President had certain definite functions to perform and in an Islamic State only a Muslim could perform those functions. It is not the question of the honour of being elected as a President ; in order that an Islamic State may function and some of the essential functions on behalf of the State performed, it is essential that the presidency should be reserved for a Muslim. This is not an unusual provision either. Even the so-called secular States have provided for it in many cases and I think for an Islamic State it is inescapable ; it is simply impossible to do away with it. Sir, I would not go into details. I know there are many examples of modern States which do not regard themselves as theocracies or anything of the kind where provision has been made that the Head of the State would belong to a certain religion—even to a certain sect of that religion.

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Then, Sir, it has been said that if you provide, as has been provided in the III Chapter that no law shall be passed which goes against the Quran and the Sunnah, then you would be putting the clock back. This is nothing but a misreading of history. There is no question of putting the clock back. As a matter of fact what this provision intends to provide is to ensure progress of Pakistan. It is not putting the clock back. It is just the other way round. It is ensuring that Pakistan would march on the road of progress and it would take its rightful place as a nation among the nations of the world. Islam has been misunderstood. To some extent we Muslims are responsible for it. Firstly, because there were many amongst us and there are many amongst us today, who do not practise what Islam stands for. And, therefore, if some non-Muslims regard as Islamic what is really not Islamic, I do not blame them. There are so many things which are unIslamic and which Muslims have done in the past and are still doing in the present. Let us hope they would not do them in the future. So, this mis-understanding is there and that is a genuine misunderstanding. Another reason for misunderstanding is that purposely Islam has been misinterpreted by many who had their own axe to grind and who did not see any virtue in Islam. It has been misrepresented by many Europeans; it has been misrepresented in this sub-continent and the result is that many people really think that Islam and progress are contradictory terms. In actual practice, the opposite is the case. We Muslims can guarantee our progress only by following strictly the principles of Islam and by applying those principles not only in our individual lives but in our collective lives, in our society and in our State. As a matter of fact, Sir, there should be no fear in the minds of the minorities—should an Islamic State come into existence—they should indeed welcome it. I am glad—I think I read it today or yesterday—some Hindus have begun to recognise this. They have come forward with the idea that their best guarantee lies in the fact that Pakistan should be declared an Islamic State. However, these may not be many. There may be many more Hindus who think otherwise. I do not question that assumption. They may think that an Islamic State may be injurious to them. I would only urge that if they would compare the principles of Islam as enunciated in the Holy Quran and by the Holy Prophet and put into practice by the Holy Prophet and his immediate Khalifas, then they would favour the idea of the establishment of an Islamic State. It is very clearly laid down in Islam that just as Muslims have their rights in an Islamic State, so have the non-Muslims; and these rights are based upon clear injunctions; upon sacred religious principles. In an Islamic State there is no option in the matter. You have to accept them as they are and to enforce them. A democracy need not give any guarantees to a minority. Democracy, after all, is the Government of the majority and nothing else. A majority can make the life of the minority brutish, nasty and short if it so wills and majorities have done so on many occasions. Let us not be under any misapprehensions. A Democracy can be tyrannical and majorities can be very harsh towards minorities. But in an Islamic State there is no question of majority's will. Certain principles take the place of the whims of the majorities as to what they are to do to their minorities and they have to follow those principles. Thus an Islamic State—if it is true to its principles—has no option in the matter. It has to be fair and generous to the minorities. Therefore I would say that if there is fear of the Muslim majority, it is under the common type of Democracy. In a Democracy people may say: "Let us see what has happened in the neighbouring country to our brethren in faith". As a majority they might think of retaliation. But an Islamic State cannot take that attitude. There is no such thing as retaliation against an

innocent minority in an Islamic State. Islam cannot countenance persecution of the Hindus in Pakistan because Mussalmans are being persecuted elsewhere. That would be absolutely opposed to the principles of justice enunciated by Islam. But a democratic majority may say: "Well! something is happening there. Why should we not do the same here?" That is the kind of thing which actually happened in both these countries, and those unfortunate events are still fresh in the minds of all of us. Let us see principal rule in this country—let certain high ideals rule in our land—rather than the whims of the majority which alone prevail in a democracy.

Sir, while I welcome the various provisions which have been made in the Report for the establishment of an Islamic State I feel a certain lacuna, and it is this that nowhere it has been clearly laid down that ours is going to be a constitution of an Islamic State. I think we should do that. This should be done in some appropriate form. It is a matter of detail how it should be done but in some appropriate form it should be done. Let there be no ambiguity about it. Let everyone know what we stand for and everyone know his rights and duties which accrue from that conception. This lacuna should be removed and we should lay it down in clear terms that we are going to be an Islamic State. We are not ashamed of it and we think that that is what is right for our people.

Sir, the second main assault has come on the subject of the federal character of our State. It has been said by my friends that nothing is left practically for the provinces, that provinces have been reduced to the status of municipalities—some such words were used by my honourable friend—and that even subjects which are assigned to them, have no adequate funds for them, according to Mr. Shaukat Hyat Khan.

It has also been said that this goes against the spirit of federalism and that although, the proposed constitution, proposes to be a federation really it is not so. Sir, the position is that federations are of various types, and the degree of centralization in different federations is not the same. There are federations where there is a very great centralization and there are others where the centralization is not as great. Now, Sir, I admit that the proposed constitution provides for that form of federation which is highly centralized. I accept that proposition and I say that that is as it ought to be. We must have a federal constitution but with as much centralization as possible. You decentralize it further and perhaps this constitution would become a unitary constitution. The Committee have stopped just at that limit by going beyond which it would become a unitary constitution. We have gone only up to that limit where its federal character could be retained. I think that is exactly the need of the times; that is what is in the interest of our country. If my friends had merely dealt with the theoretical advantages of decentralization, at least some of us might have thought that they sincerely believe that decentralization would be a better proposition than centralization. But I must say that Mr. D. Dutta let the cat out of the bag when he said that decentralization should go so far as to provide also for the right of secession to the units.

**Shri Dharendra Nath Datta** (East Bengal : General) : I have never said so.

**Dr. Mahmud Husain** : That is what I heard.

**Shri Dharendra Nath Datta** : I have never said so.

**The Honourable Mr. A. K. Brohi** (Sind : Muslim) : He did not, but the first speaker from the Opposition said so. It was Mr. B. K. Dutta.

**Mr. Bhupendra Kumar Datta** (East Bengal : General) : Yes. I said so.

**Dr. Mahmud Husain** : You (pointing to Mr. D. N. Dutta) did not say so ; I am sorry for the mistake.

**The Honourable Mr. Nurul Amin** (East Bengal : Muslim) : There are three Dattas.

**Mr. President** : Both are Dattas.

**Dr. Mahmud Husain** : Any way it does not matter who said it. Let us see what has been said. Let us turn to what was said and not to who said it. It was said that decentralization should go so far as to provide for the right of secession. Now it is here that I say that perhaps my friend who said that he had not the interests of Pakistan in view "when he said that, "He wants the Provinces to become independent of each other."

**Mr. Bhupendra Kumar Datta** : Read there speech before imputing motives, you have got a copy.

**Dr. Mahmud Husain** : It is not a question of motives. The fact is that you asked for secession. So far as secession is concerned, it is unimaginable for us to think of secession amongst ourselves. It may be something which may be a practical proposition for you ; it may be desirable proposition for you or anything of the kind. But so far as we are concerned we just cannot think of it. That would be the end of Pakistan. We are not here to bring about an end of Pakistan. We are here to see that Pakistan flourishes, and prospers, that it makes progress and that it flourishes in this world and that it remains as a powerful and fine state. That being so, we should not encourage those tendencies which would lead to the way indicated by Mr. Dutta. We cannot simply think in those terms. I admit the right of secession has been provided in some constitutions. Some constitutions contain provisions to that effect, I know. It is provided for by certain dictatorial constitutions, but dictatorship knows how to guard against it. Ours is not a dictatorial constitution ; ours is a democratic constitution and therefore to provide for secession would be tantamount to committing suicide. We shall be finishing Pakistan before we have begun it under the new constitution.

**Mr. Bhupendra Kumar Datta** : Then you can leave it out and see what happens.

**Dr. Mahmud Husain** : Then, Sir, provincial representation and parity have also been brought into question in some form or other. Inside the House and outside it has been said on the one hand that in a democracy of course the majority should remain a majority and on the other that even to grant parity to one unit with all the other units put together is too much. The principle of parity is found in some form or other in all the three constitutional proposal that we have had, namely, the interim report, the main report of the Basic Principles Committee, and the formula, which has been put forward recently by the Honourable Prime Minister before this House in connection with the present motion and which has been agreed to by the various leaders, provincial and Central. As one of the members of the Basic Principles Committee I would be pardoned if I take some pride in the fact that in spite of the vehemence with which this principle of parity was attacked in certain parts of Pakistan, the collective wisdom of our leaders has not been able to find anything very different from what was provided for in the Basic Principles Committee Report. What was provided in the two reports and finally what has been provided in this proposal is as follows. The Report which came as

interim report provided for equality of rights of both Houses. There was to be representation on the basis of population in one House and equal representation in the other. But it was to be so arranged although it was not said in so many words, that in the joint House there would be parity and it would be the joint House which would decide all the essential issues. That was in the interim report. The main report said, "No, do away with these equal rights ; it is undemocratic, it does not exist in parliamentary systems of Government," so let us have parity in both the Houses separately and let all important matters be assigned to the Lower House. In other words important things which were assigned in the Interim Report, to the joint House were now assigned to the Lower House and in the Lower House there was parity. Now, Sir, what is being done is that we have reverted to the theory of equal rights of Houses but essential matters such as making and unmaking of Governments, election of the President, resolving of disputes between the two Houses,—these are really important matters for these are the things which give a certain supremacy to the House, are left to the joint sitting of the two Houses and there although the word has not been used, but as you know, there is going to be parity.

Then what was all this noise about ? Why was all this row over parity ? What is the essential difference ? The only difference I notice is this that now one unit has been able to secure greater representation in the Upper House. In a nutshell, Sir, all this jugglery has led to this that one single unit of Western Pakistan has been able to secure as many seats in the Upper House as Bengal. That is the only difference that has come from this formula. If you take this formula into consideration, then you will find that in the former set-up in the Upper House the Punjab and Bengal would not have had the same number of seats but now they will have the same number. By a camouflage what has been done is that other Units of Western Pakistan have been grouped together and these groups of units have been given seats equal to the seats given to the Punjab and Bengal. The Punjab is the only unit that enjoys the privilege of obtaining as many seats as are allotted to Bengal. Tribal regions and Frontier States have been grouped with the North Western Frontier Province. About this one might have said that it was a natural thing to do because after all they are one people and there is no harm if they are grouped together. That might indeed be in the best interest of Pakistan. I also agree that it was natural for Sind to be joined with Khairpur, because here also the same principle is applicable. Perhaps ultimately it would be in the interest of everybody that the two should come together in some shape or form. If they are for the purpose of representation brought together there is no harm in it. But, Sir, when we see Bahawalpur, Karachi, the Capital of Pakistan, the Baluch States and Baluchistan our wonder knows no bounds. Baluchistan today may not occupy any important position in Pakistan. But I have not the least doubt, that Baluchistan is going to be one of the most important provinces of our country for the simple reason that it is a very big province, its resources are immense and its possibilities for growth are enormous. One need not be a prophet to say that in the course of 10, 20 or 30 years, Baluchistan will present a very different picture from what it presents today. Yet, Sir, even Baluchistan has not been given a separate status and equality of representation in the Upper House, a principle for which all this confusion was caused, similarly Karachi, which is the Capital—and capitals enjoy very often rights which are not enjoyed by other parts of the country—has not been recognized as a unit. I agree that certain constitutions impose certain disabilities upon the residents of a capital, but these capitals are of a different type. Those are capitals



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which are made as capitals, they come into being as capital. Karachi is not such a Capital. It was a great city and had a flourishing trade and a large population before it became the capital of Pakistan. Karachi is not just the capital, in fact, I doubt very much whether politics can even now be regarded as the dominant factor in the life of Karachi—there are other aspects of life which are more important than governmental activities because Karachi is a big city and has a vast population. But the thing to which I particularly object is the tagging of Bahawalpur to Karachi and Baluchistan. It was in accordance with some principle when the Frontier States and the Frontier Regions were grouped with the North Western Frontier Province and Khairpur had been grouped with Sind. Exactly, on that ground, Bahawalpur should have been grouped with the Punjab and none else. That would have been the right thing to do ; that would have been the honest thing to do. But simply to give the Punjab its 10 seats, even the ultimate interests of Pakistan have been overlooked. I challenge those who have made this provision. How could they commit such a folly? Was it intentional? If it was intentional, then it was criminal and if it was not intentional, it was foolish. There can be no other way for Bahawalpur than to be linked with the Punjab and there should be no question of its link-up with Karachi. Sir, Karachi should be treated as capitals have been treated elsewhere. It should not be disadvantageous to be the capital city. Is it a crime to live in the capital? Is it a sin to be in the capital? Yet, that is the position at which we have arrived by this process. The grouping of Karachi with Bahawalpur is not unfair. If however, in spite of that I say that we should give a trial to this formula, it is not because the formula is better than the proposal contained in the Basic Principles Committee Report it is in some respects much worse but because it has been agreed upon by our people. Even a foolish provision can be worked by a united people. It does not matter so much what Constitution we have. You may have the most perfect constitution in the world and yet in actual practice it may turn out to be worse than useless. Think of the Weimer Constitution of Germany. It was made by the best German brains; there were no better brains in Germany than those who were responsible for the making of that Constitution of 1919. Yet see what was the result? What was the result of the efforts of the best brains not only in politics but in all walks of life. The Constitution on paper looked to be perfect and yet it ended with the dictatorship of Hitler. If our people would work the formula, sincerely, in the spirit in which it should be worked, in the interest of Pakistan, forgetting petty interests and thinking of the greater interests of Pakistan, then, Sir, even this formula can be a success. That is how I look at it and that is the reason why I give my support to it.

Sir, before I resume my seat, I shall refer to one more question and that is perhaps in some ways, a question which is uppermost in the minds of my friends sitting in front of me. I mean the question of separate electorates. Sir, so far as separate electorates are concerned, they have been painted very black indeed by some of the speakers and a number of things have been said in this connection which need rebutting. Sir, so far as we Muslims are concerned, I must admit, we have a certain partiality towards the institution of separate electorates, and the reason is obvious. The reason is that it has done no harm to us and it has done some good. Therefore, it is only human if we think that it is a thing which is not to be despised or dismissed simply because somebody says that it is poison and that it will bring about disastrous results. Simply because someone says so, it does not cut

much ice with us because we have in our own political experience seen, that it is not a bad thing for a minority and that it is surely one kind of safeguard which can be provided for a minority. That is of course not the only safeguard. Many other safeguards are possible but surely this is one type of safeguard that can be provided for a minority. Now, what are the main arguments which have been put forward against it? It has been first of all said that the Hindus do not want it and that it is being imposed on them by the majority. This has been, I think, the basic objection against separate electorates from my friends here. Now, Sir, I do not contest that those who spoke in these terms honestly believed in what they said, I have no right to question their sincerity, but so far as people on this side of the House are concerned, they have their own eyes to see and their ears to hear. If they are satisfied that whatever may be the view of a few members sitting here, there are many Hindus outside, this House who would value the introduction rather retention, of separate electorates. Then, I am not saying something which is not true. We honestly believe that there are large numbers of men in our country, their number is particularly large amongst the Scheduled Castes, who favour the retention of the principle of separate representation and who seek special rights for themselves in this shape. Then, Sir, another argument had been put forward. It was said how can a Hindu feel that he has a share in the Government of the day when he is to vote separately from his Muslim brothers; how can he call the Prime Minister his Prime Minister when he has got no share in his election. This, Sir, is a very peculiar argument. May I ask who will elect the Prime Minister? The Prime Minister would be elected after all in a single constituency. Surely he would be elected in only one place, in a district or perhaps a sub-division. How can a person, even though a Muslim, who does not belong to that particular sub-division say that he has elected him. This kind of logic is wrong. To say that the people who do not belong to the constituency from which the Prime Minister is elected have got no right in the election of the Prime Minister and therefore they cannot call the Prime Minister their own, is not justifiable. Prime Ministers are the leaders of majority parties in legislatures. There may be coalitions, and there may be single party Governments; leaders are chosen by parties. It matters little who have elected them; which constituency has elected them. This argument, therefore, Sir, has really not much weight.

Lastly, Sir, it has been said that separate electorates cause friction among the communities. On this point I hold just the opposite view. Separate electorates do not create any friction, on the other hand they create a situation in which friction becomes least possible.

**An Honourable Member:** Well, they do not.

**Dr. Mahmud Husain:** I am speaking, Sir, as a humble student of History. Take the last 50 years. When during these years were the relations between the Hindus and the Muslims at their best? The relations were at their best during the years immediately after the first World War. It was about 1920 that this sub-continent experienced a very extraordinary phenomenon. Fraternal and most happy relations existed between the Hindus and the Muslims when in the Khilafat movement and in the movement for the independence of India, Muslims and Hindus worked hand in hand and fought against their foreign masters shoulder to shoulder. I ask through you, Sir, my honourable friends opposite, when this happy result was achieved, whether after the introduction of separate electorates—or before the introduction of separate electorates. Separate electorates came in 1909 and the story I am giving you is the story of 1920. It was the separate electorates which had created

[Dr. Mahmud Husain]

the atmosphere in which friction was removed and the World witnessed that happy spectacle. After the coming of separate electorates Muslims and Hindus came nearer to each other. I am noticing some smile on the faces of my friends opposite but I would tell them that I am not alone in this opinion. Let me give them the opinion of a person whom my friends opposite also respect very highly. I am thinking of no less a person than Maulana Mohammad Ali, an idol of the Hindus and the Muslims for many years before he became *persona non grata* with the Hindus. When he was elected as the President of the Cocanada Congress, it was then that in his presidential address he brought out this point. I shall read from the address which he gave on that occasion. What I am saying is not so fantastic, it is not so unusual. Maulana Mohammad Ali thought exactly on these lines. Sir, I will now quote his words from the Presidential Address of the Cocanada Congress.

**Mr. Abdullah-al Mahmood** (East Bengal : Muslim) : Which is the book you are referring to.

**Dr. Mahmud Husain** : This book contains a collection of constitutional documents. The compiler is Mr. Banerjee. It is not a rare book. In his address Maulana Mohammad Ali says, paradoxical as it may seem, the creation of separate electorates was hastening the advent of Hindu-Muslim unity. For the first time a real franchise, however, restricted, was being offered to Indians, and if Hindus and Mussalmans, remained just as divided as they had hitherto been since the commencement of British rule, and often hostile to one another, mixed electorates would have provided the best battle-ground for inter-communal strifes, and would have still further widened the gulf separating the two communities. Each candidate for election would have appealed to his own community for votes, and would have based his claims for preference on the intensity of his ill-will towards the rival community, however, disguised this may have been under some such formula as "the defence of his community's interests. Bad as this would have been, the results of an election in which the two communities were not equally matched would have been even worse, for the community that failed to get its representative elected would have inevitably borne a yet deeper grudge against its successful rival..... The creation of separate electorates did a great deal to put a stop to this inter-communal warfare".

**An Honourable Member from the Congress Benches** : What has Dr. Zakir Husain to say ?

**Dr. Mahmud Husain** : I prefer to speak for myself and not for anybody else. Therefore, Sir, it is not a strange idea which I am putting forward. It has been accepted by quite a large number of thinking men. To say that separate electorates create disunity is incorrect and it is not based on facts. These were some of the observations which I wanted to make at this stage of the report, namely, its consideration. I hope there will be occasions in future when I shall express my thoughts on the various provisions of the Report. With these words I support the motion for the consideration of the report.

**Begum Jahan Ara Shah Nawaz** (Punjab : Muslim) : Mr. President ! Sir, allow me to join in the bouquet of congratulations which is being presented to the Honourable the Prime Minister on behalf of this honourable House on his succeeding in finding a solution for the constitutional deadlock. He and all those associated with him who have helped to solve this knotty problem deserve the nation's deep gratitude. Mine may be a lonely voice in this hall, Sir, but it is the voice of half

of the population and we, as wives, mothers, sisters and daughters, are happy today that the greatest hurdle in constitution-making has been crossed and the nation will no longer roam in wilderness.

Sir, in the Press and on the platform we, Members of the Assembly, throughout the last year, have been dubbed as traitors to our nation, as persons who wished to cling to their seats and do not wish to frame the Constitution. We have been told that we are purposely prolonging this work so that the Assembly should not be dissolved. Sir, those who have been dubbing us with these epitaphs forget that the task placed before the Constitution-makers is a very difficult one indeed. Apart from this, it was not in their hands that they should sit down to work for months at one time and come to final conclusions for framing the Constitution. True the country was crying for it but unfortunately for months sometimes even for one year or 13 or 14 months the Committees were not asked to meet and no work could be accomplished. Then, Sir, what were the problems before them. Let us take a stock of them. Pakistan, the country for which they had to frame a Constitution, was divided into two zones. Each one of those zones was far apart from the other—a distance of nearly 1,500 miles. Each one of these zones had its own distinct problems, its own separate language, or its own separate entity and separate culture. Moreover, Sir, one zone had a greater number of people living in it but at the same time it happened to be one unit, whereas the second zone, although it had a lesser number of persons residing in it was divided into a great many units. Well, Sir, the question or rather the greatest question before us was what shape should a Constitution take for these two separate zones, far apart from each other so that the people should be welded together into one homogenous nation. There was the centralized form of Government. Now a centralized form of Government could only be possible if all the people were living together in adjacent zones, not divided so far apart. A centralized form of Government could only have been a success if the nation had one culture and had been one entity.

Then, Sir, came the question: Could it be a Confederation? Sardar Shaukat Hyat Khan this morning said that he would have been happy if we had framed a Constitution on the basis of a Confederation of the two zones. Well, Sir, he quite forgot that when one zone happens to be one unit and the other zone has too many units already working as autonomous States, who are not prepared to merge themselves into one unit, how can it be possible to form a Confederation? Moreover, Sir, it was not possible as some of them say that the West should have been welded into a sub-federation. In the western zone with all these units already having such over-burdened administrations—so many Cabinets, so many Legislatures, so many different heads of Departments—with the economy so over-burdened, it would not have been possible for us, to saddle the West with another Legislature and Cabinet for which the taxpayer could not afford to pay for a bicameral or unicameral Legislature. Therefore, Sir, a Confederation was out of the question.

Now, Sir, then came the question of a Federation. Sir, in the world there are two forms of Federations: centripetal or centrifugal. There are big and small nations in the world who had started with a centripetal form of Government, very centralized, and there have been federations that began by giving not only full autonomy but even the right to secede to all the units. I mean in the first instance, the U. S. S. R. and in the second instance, the U. S. A. Sir, the U. S. S. R., starting by being a unitary centralized form of Government has made itself so much centrifugal now that even the smaller units have armies of their own and

[Begum Jahan Ara Shah Nawaz]

are completely separate units by themselves. Whereas in the U. S. A. though they began with a centrifugal system giving even the right to secede to all the units—not only the residuary power as Sardar Shaukat Hyat Khan wanted this morning—today it is, as some people often say, one of the worst of centralized forms of Government. Well, Sir, all these things were before us, and these discussions went on. In spite of the task being so heavy and difficulties facing us at every step it is not that we failed. No, Sir, we did not. In three years we did produce a report, that was based on very healthy provisions and I would not be exaggerating if I say today that there could not have been healthier provisions bearing in mind the difficulties. Sir, after roaming in the wilderness for two years, we are going back to those same provisions which had been incorporated in the Interim Report. That shows that they are healthy provisions which from the very beginning had been taken up by the constitution-framers. Today we agree that they should form the basis of the new Constitution.

Well, Sir, I said once in this very lobby to some of our leaders who, after spending a couple of months in Europe had returned looking very fresh, very healthy, while we people had been sweating in the sweltering heat of Karachi at the end of August and beginning of September, trying to frame something in the form of a Constitution for our nation. On their return they started picking holes right and left, and I could not help but say to them that if they threw the Interim Report into the wastepaper basket, then what? I told them that the result would be that they would not know where to turn to. Well, Sir, time has proved that what I said then was the truth. Anyway, as they say in our language—

*Subah ka bhoola sham ko ghar a'ajai to use bhoola nahin samajhna chahiye.*

It is never too late to mend.

Thank God that they are now taking up what we chalked out for them nearly 2½ years ago.

Sir, not only did we have this most difficult of tasks to perform but we, the nation, had undergone such tremendous sacrifices, losing the lives of nearly 8 lakhs of people, the honour of nearly 80,000 women, repatriation of nearly a crore of people and leaving nearly 4 crores of people with practically no future for their future generations before them for what? Because, Sir, we had told the world, crying from housetops, in the Press and on the platform that we had a new ideology to give to the world. Sir, you rightly said in your speech the other day that Islam is the panacea of many of the world's difficulties and problems of the day. There are many of us here, rather all of us, who believe in this and, therefore, we considered no sacrifice great enough for achieving a small corner, for securing a plan where we could translate into actions what we had been saying from the housetops. It is a new philosophy of life and we could give it to the world. Sir, we achieved success in our mission and secured a corner. We said now we must frame a constitution which would pave the way for translating into actions our ideology and making that little corner what we wanted it to be. Well, Sir, with this end in view the framers framed what is known as the Objectives Resolution, which was the gist of what we had proclaimed and professed. It was hailed by our nation, passed by this honourable House, and was to become the preamble for a new constitution.



Then, Sir, there came another difficulty. I, as a humble member of the Basic Principles Committee can say—I wish I could lift even one corner of the veil—that this clash of ideals took up most of the time. The clash came between the two schools of thought within the nation—the old and the new. Sir, belonging as I do to a family, some of whose members have been Arabic scholars and not only some of their judgments are quoted today some have been second to none in serving Islam and their nation. The Islam that we were brought up to understand and believe in from our childhood is the Islam of the Holy Quran. The Islam as given in the Holy Quran in the Fourth Chapter and what is that? Almighty God says: “O Prophet, the Christians, the Jews, the followers of Abraham (Sabis) come to you and say that they are the true believers. Verily tell them from me that he—mark my words—who believes in one God, on the day of resurrection and does good deeds in the true belief and will have nothing to be afraid of”. It is said that Khalifa Umar was with the Prophet (peace be upon him) when this verse was inspired. Khalifa Umar, as soon as he came to know of this verse, rushed out of the Prophet’s (peace be upon him) house, to tell the people how easy religion had become. On the way he met Abu Bakr Siddiq, the first Khalifa and he said: “Umar! where are you going?” He told him about the new verse and he said: “Stand here, you are not to go and tell the people about it for this is meant for you and I and not for them. If they come to know of this, they will neither pray nor fast. Well, Sir, this is the spirit of Islam and this is the Islam we know of, that a person who believes in one God, in a life hereafter and does good deeds, has nothing to be afraid of.

Sir, Prof. Chakraverty said the other day: “How are you going to legislate according to the Islamic laws?” He said: “Look in the Holy Quran, it is said that you must cut off the hands of a person who is a thief.” Let me tell him that the cutting of the hand is the maximum punishment which has been prescribed for a habitual offender, more as a deterrent than anything else. He also said: “How can some of your womenfolk be seated here in the legislatures when you are told that women must stay in their homes.” Sir, this is not the place for me to give a discourse or a sermon on Islam or on the position of women in Islam, but I am afraid I cannot let this remark go unchallenged. Probably, he does not know that Islam was the first religion in the world that recognised equality between the two sexes. The word used in the Holy Quran is “*masawat*”, and that in all civic rights, whether of punishment or of reward, women and men had been told that they would get exactly the same reward and punishment, so that their rights are equal. Not only that. There is a line in the Holy Quran and I would very much like our learned colleague, Sardar Nishtar Sahib, to throw some light on it when he speaks. It is said: “O ye men and women! when you go on the roads, keep your eyes downcast.” It does not say that women are to keep their eyes downcast or not men. It says both men and women. Islam enjoins piety, righteousness, chastity and modesty both for men and women, and equal high morality for both the sexes. Well, Sir, women in Islam are told to put on *chadars* when they go out just as in all the European or American countries whenever a lady or a woman of good family goes out, she puts on a hat or coat. Sir, we are told not to go out showing our ornaments—the words are “*zinat ke muqamaat*”—which are certain parts of women which men do not have—and we are allowed to show all those parts that are “*char-o-nachar khule rahan*” that are to remain unavoidably uncovered in the performance of our duties and cannot be kept covered while working. One has to breathe; one has to talk; one has to see; that is to say, hands and faces. If a woman is to go out and to work, especially do social work,

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as even the women of Prophet's household did—they tended the sick ; they went and looked after the wounded after battles. Women are asked to go and look simply and with all their bodies covered, except their faces and hands—"Jo char-o-nachar khule rahun". Now, Sir, not only that ; probably my honourable colleague on the other side does not know that one of the leading political parties was led by the Prophet's own wife, Hazrat Ashiya Siddiqah, and she was elected or chosen as leader by the people of that party. Her sayings are some of the well known and most authentic sayings of the Holy Prophet.

Now, Sir, what is the woman's position as a wife, mother, sister and daughter ? A woman inherits the property which as my honourable friends know is not the case in their nation. We inherit as wives, mothers, sisters and daughters. Moreover, Sir we have absolute ownership of that property and we can give it to anybody we like. Sir, marriage is a civil contract which can be annulled by the consent of both the parties and can be entered into by the will of both the parties. A woman can also divorce the husband. There is the right of *Khalah*. Also, Sir, widow remarriage is not only allowed in Islam but it is said in the Quran that any widow wanting to remarry can get married after four months and ten days ; "even within those 4½ months if she wants to adorn herself in order to get married, she can do so and no one can stop her. This is the position of a woman in Islam. She is a recognised individual member of the State enjoying all the rights and privileges that any other individual member enjoys in that State. Let me tell you, Sir, that we have already started practising the ideology we professed. Sardar Shaukat Hyat Khan said that we had not started doing so. Let me remind him that we have as we are practising it today as the right to enjoy franchise on equal basis, which is adult franchise, has been given to the women. Sir, allow me through you to convey our sincere gratitude to the leaders of our nation for recognising that basic principle of Islam : equality of status ; equal opportunities, equal pay for equal work as a fundamental right for both the sexes equally. In recognising this and accepting this as a justiciable right they have shown foresight, wisdom and imagination and have proved that they are not merely proclaiming the Islamic ideology but mean to practise it in this country.

Sir, we have been talking of Islamic Constitution. We have been saying that we will frame an Islamic State for this country. Certainly ! But what are the basic principles of Islam as far as the constitutions go ? No. 1. The Head of the State may be *Sahib-i-Rai*\* or *Sahib-i-Sha'oor*\* or "adult," those who can understand. Take it as you like but if the basic principle of adult franchise is accepted and if the Head of the State is not somebody who through might becomes the monarch, but is someone whom the people like and who is of the people, then the constitution would be *ipso facto* an Islamic constitution. That is how, I look at it. Then comes the question of constitution building. Now, Sir, what then is the Constitution ? Is it not a building in which those elected representatives, chosen by the adults of the country would go and sit to legislate according to the Islamic laws. If, Sir, that is recognised, it is immaterial what that building is going to look like—whether it would be one-storied or two-storied like the Masj'id-i-Nabvi or whether it would be something like the buildings of a plastic age—a very fine building with carpets spread as we are sitting in one today.

I will deal now with a point raised by one of our outstanding lawyers—Mr. Dutta. The percentage of literacy in our country is very low

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\*Man of sound judgment.

I am sure Mr. Dutta in his heart of hearts did not advocate a unicameral legislature for this country. If the percentage of literacy is not high in a country two Houses become essential. We who have very recently faced an adult suffrage election in the Punjab know what it means to sit and work with persons elected by adult voters. I wish Mr. Dutta had been sitting in one of our party meetings only a couple of months ago when some of the resolutions and bills placed before the party were nothing but what one would name as frivolous legislation. Such frivolous legislations can only be checked by an Upper House composed of literates and of ripe judgment. Wish to God we could have Upper Houses in the Units!

Sir, the position of women in the new constitution has been made clear by the removal of sex disqualification and we are very happy about it. The demand with regard to the equal status, equal opportunities and equal remunerations that ought to be paid to both men and women for equal work has been recognised as a fundamental right as enjoined by Islam. Sir, I would very much like to convey through you to the leaders who are framers of the constitution the sincere thanks which I have been asked by the women of the country, to convey to them and say that if the fundamental rights do not form a chapter of the present constitution, and are not made justiciable, it would not be accepted by them. In fact, I have been asked to walk out of this House in that case. We asked for 20 per cent. of reservation of seats for two elections only for women in all the Legislatures, both Provincial and Central. The women's organisations asked us—Begum Ikramullah and myself—to request for such reservation. We recognise that asking for any special privileges after having worked and secured for equality, would be a negation of the very principle of equality but, Sir, the conditions that prevail in our country are such that for at least ten years to come, women stand no chance of being elected through general constituencies. It would not be possible for any woman representative to enter the legislatures in order to safeguard their rights and interests. Therefore, Sir, we asked for a 20 per cent. reservation and only 3 per cent. was unanimously accepted by the Franchise Committee. The Franchise Committee accepted three per cent. unanimously; it was accepted unanimously and incorporated in the Interim Report. Again it was unanimously accepted by the framers of the second report and Sardar Abdur Rab Nishtar and all my other colleagues of the Basic Principles Committee sitting here in this hall today would bear me out that this was so. Sir, what happened after it? I signed the Report and I went back home. When the final report was printed and was sent to me, the provision for reservation of seats had been out of it. Imagine my surprise and my grief! I have sent a number of amendments asking for 14 seats for the Lower House, 7 for each zone for women, 7 for East Bengal and 7 for the Western Zone, which should be divided between the units of the West as 3 for the Punjab, 2 for Karachi, Baluchistan and Bahawalpur and one for Frontier and Frontier States and one for Sind and Khairpur. Moreover, Sir, two seats should be reserved for women in the Upper House—one for East Bengal and one to be elected by the members of the four western units. Well, Sir, I do hope that all my colleagues sitting in this House will not hesitate to give us what has already been unanimously decided by a number of committees at several occasions. I only hope, Sir, that this will be so.

**Sardar Abdur Rab Khan Nishtar:** Rest assured.

**Begum Jahan Ara Shah Nawaz:** I know that I have taken longer time than I should have of this honourable House but there are

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some very important things which I wish to say before sitting down, particularly regarding some of the points in the speeches made by my colleagues from the opposite benches. Some of them have remarked that they are not feeling happy about certain provisions of the Basic Principles Committee Report regarding its Islamic character about the Head of the State and so on. I for one first of all was not happy in the word "Sunnah" being included in the Objectives Resolution because much as we respect Sunnah, we know it will be very difficult to judge which is the right Sunnah and which is not. But at any rate as that has been accepted as a part of the Objectives Resolution I will not say anything about it. It is true that there are some sitting on this side who feel that reserving the election of the Head of the State for a Muslim only is a negation of the fundamental rights of equality or that the provision of Ulama Boards is undemocratic or a retrograde step. I do hope that Chapter III will be re-read by some of my colleagues who call this provision as a provision for a Board of Ulemas. It is a provision for a board of five persons only; they may be high court judges or well versed in Muslims Jurisprudence and need not be Ulemas at all. Anyway many of us feel, Sir, that such Boards superimposed on legislatures and given overriding powers in deciding whether a legislative measure is Islamic or unIslamic, are an unIslamic provision. We are apprehensive that most of the Members of these Boards would be what are commonly called as Ulemas. Islam, Sir, is a religion that came into the world to abolish priesthood. For us to give statutory recognitions to such bodies would not do. Sir, I am happy to say that this report which is now being thrashed out in party meetings in undergoing charges. After all it is just a report on behalf of a small committee and I have every hope, Sir, that with all the good brains of the nation sitting around these tables many of these unhappy provisions will not be there.

Sir, before I sit down I would like to say one or two things to my colleagues as well as through you to the people outside. Number one, Sir, I appeal to my colleagues, my good brothers, sitting opposite that the nation today is in the throes of a great economic struggle; the nation today is looking for a silver lining and this formula seems to have given, it to them a silver lining to the dark clouds which are blotting the horizon. I appeal to them through you, Sir, I beseech them not to take the nation back into the wilderness by pitching holes all around in an agreed formula. After all this is the first agreed settlement which has been accepted unanimously by practically all the members of the two wings of the Muslim League Assembly Party.

Sir, I find from all the Press comments that the majority of the people in both the wings for the first time, have commented favourably on this formula. We have seen this silver lining for the first time and let us not try to make it recede again and in fact let us try to turn it into sunlight. Let us not go back to our homes and start undermining it as we did in the case of the last two reports.

Then there is another appeal, which through you, Sir, I have to make and that is to our respected Ulama-i-Din. Sir, I have gone over more than half of the globe and wherever I have been I have had opportunities of talking to people and speaking on Islam and allied subjects. I have always tried to show Islam in its light, in its true perspective, a simple and rational religion. I beseech all my Ulama-i-Din that now that we have undertaken a very big task of showing to the world what is the third ideology that we are placing before them. Let us work in the

true spirit of Islam which as I explained in the beginning of my speech is very simple. Let us work for that and show to the world that Islam is not a static religion. That it is a religion that embodies in it *Ijtihad*, and charge through discussion in ordinary matters. I do hope, Sir, that they will be wiser because it is an article of faith with me that if Islam were to be shone in practice by us in its true light more than half the world would like to know more about it and to believe in it. With these few words, Sir, I commend the motion for the acceptance of the House.

**Mr. President:** The House stands adjourned till 11 a.m. tomorrow.

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The Assembly then adjourned till Eleven of the Clock, on Wednesday, the 14th October, 1953.





# **LIST OF AGENTS IN PAKISTAN AND ABROAD FROM WHOM GOVERNMENT OF PAKISTAN PUBLICATIONS ARE AVAILABLE**

## **I.—INLAND**

### **1. PROVINCIAL GOVERNMENT BOOK DEPOTS :—**

*North-West Frontier Province :—*

Manager, Government Printing and Stationery, N.-W. F. P., Peshawar.

*Sind :—*

Superintendent Sind Government Book Depot and Record Office, Karachi.  
(Saddar).

*Punjab :—*

Superintendent, Government Printing Punjab, Lahore.

### **2. PRIVATE BOOK-SELLERS :—**

*East Bengal :—*

Messrs. The Pak. Co-operative Book Society Ltd., Chittagong.

Messrs. Kohinoor Library, Ander-kill, Chittagong.

Messrs. Burhani Paper Mart, 11, Bangla Bazar, Dacca.

Messrs. Qazi Khurshid Mustafa, 23, Rajani Choudhry Road, Gandaria, Dacca.

*North-West Frontier Province :—*

Messrs. Ferozsons, 35, The Mall, Peshawar.

*Karachi :—*

Messrs. Aero Stores, 170, Napier Road, Karachi.

Messrs. Ferozsons, Bunder Road, Karachi.

Messrs. Kitabistan. Ltd., 18, Hotel Metropole, Victoria Road, Karachi.

Messrs. Pioneer Paper and Stationery House, 1, Avan Lodge, Opp. Dow  
Medical College, Bunder Road, Karachi.

Messrs. Windsor Book Stall, Elphinstone Street, Karachi.

Messrs. Burhani Paper Mart, Campbell Street, P. O. Box 26, Karachi.

Messrs. Pakistan Law House, opposite Small Causes Court, Wadhomal  
Odharam Road, Karachi.

Messrs. The Bookland, Bunder Road, Karachi.

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Messrs. Educational Book Depot, Stationers and Book-sellers, School Road,  
Hyderabad, Sind.

*Punjab :—*

Messrs. Danishmand & Co., Karkhana Bazar, Lyallpur.

Messrs. Ferozsons, The Mall, Lahore.

Messrs. The Punjab Religious Book Society Anarkali, Lahore.

Messrs. Nawai Waqt Publications, Ltd., Lahore.

Messrs. Manzoor & Co. (Pak.), Ltd., 6, The Mall, Lahore.

Messrs. A. M. John & Co., Kutchery Road, P. B. No. 297, Lahore.

Messrs. The Publishers United Ltd., 176, Anarkali, Lahore.

Messrs. International Agency, Gujar Basti, Lyallpur.

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The High Commissioner for Pakistan 499, Wilbord Street, Ottawa, Canada.

The Embassy of Pakistan, Pakistan House, 11, Sharia Hodel Laban, Garden  
City, Cairo, Egypt.

The High Commissioner for Pakistan, 8, B, Hardinge Avenue, New Delhi.

The Embassy of Pakistan in 15, Dalian Tanku Umar, Diakarta.

The Embassy of Pakistan, Khiaban Takhte Jamshed Kashi No. 276, Tehran,  
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The Embassy of Pakistan, Wazirva Baghdad, Iraq.

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The Embassy of Pakistan, 17, Sadovekudrinskava Street, Moscow, U. S. S. R.

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